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THE GOVERNMENT
AND
CIVIL INSTITUTIONS
OF
NEW YORK STATE



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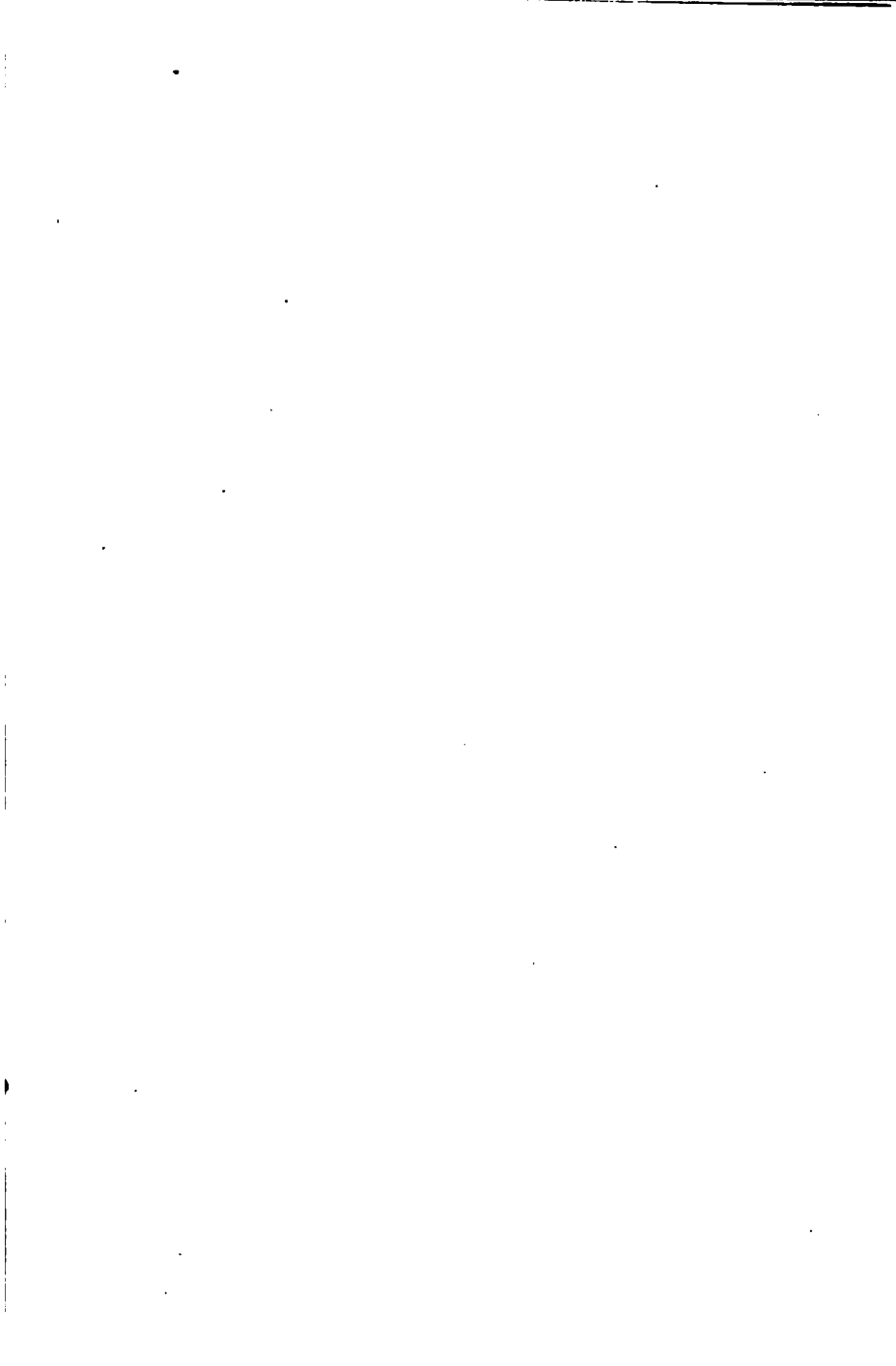


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° THE GOVERNMENT AND
CIVIL INSTITUTIONS OF
NEW YORK STATE

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PREFACE

This volume, which is intended to treat solely of the governmental institutions of the State of New York, forms the second book of a treatise on civil government, of which the first book relates to the origin, growth and form of federal institutions. It is assumed that the student is already familiar with the general principles of government as well as the powers of the federal government and the rights of individuals, and all discussion of these subjects is here purposely omitted.

In treating this subject Part First is devoted to a review of the political growth of the Province of New York and an examination of the principal provisions of previous state constitutions. In this way the student is shown the beginnings of those institutions which are peculiar to the state government. Part Second contains a critical and analytical study of the present state constitution. The sections and clauses are inserted in the body of the text for the convenience of the student and to insure a careful study of the language of the document itself. The origin and growth of local governmental institutions are historically considered and their likeness to, or difference from, those of the State and Nation carefully pointed out. Taxation, corporations and similar subjects are given special treatment. The vague knowledge of the public in general as to the jurisdiction and

PREFACE

procedure of courts of justice has induced the authors to deal quite freely with these subjects that the student may gain a comprehensive idea of the scope and purpose of judicial institutions.

Having completed the consideration of the state government proper, a chapter is devoted to the growth of political parties and their place and importance in popular government, together with the mode of conducting primaries, conventions, and elections. It has also been deemed advisable to define clearly and concisely the rights and duties of a citizen, and the book closes with a chapter upon this important subject.

The purpose of these last two chapters in particular, and of the book in general, is to furnish the student with a knowledge of the relations of the State to its citizens, which will be of practical value to him in the exercise of his public rights and will impress him with the responsibilities which rest upon every citizen of the State of New York in the performance of his political duties.

WATERTOWN, N. Y., *November, 1902.*

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PART FIRST.

THE DEVELOPMENT OF GOVERNMENT IN NEW YORK.

CHAPTER I.

COLONIAL GOVERNMENT.

Dutch Rule.—The territory discovered by Henry Hudson in 1609 was first occupied by the Dutch in the winter of 1613–14, when a few rude huts were erected on Manhattan Island as shelters for Adraen Block and his companions, whose ship had been destroyed by fire. The following year permanent trading posts were established by a company of Amsterdam merchants who had been granted a charter allowing them “exclusively to visit and navigate” these regions for a period of four years. In 1621 the States-General of Holland granted this territory, under the name of New Netherland, to the Dutch West India Company, with a monopoly of the trade and the power to establish a colony and a colonial government.

The Government of New Netherland.—In the government organized by the Company, all the powers were placed in the hands of a Director-General, assisted by an advisory council of five men, in the selection of whom the people had no voice. In this form the government continued until 1642, in which year Kieft,

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the Director, was forced to summon a meeting of the residents of New Amsterdam to devise means of defense against the Raritan Indians. At this meeting "twelve select men," known as the "Committee of Twelve," were chosen to act for the people. They demanded, as the price of their assistance, that four persons chosen by the people should be admitted as members of the advisory council. To this Kieft consented, but withdrew his promise when the dangers of war were over. The next year further trouble with the Indians induced Kieft to call another popular meeting. This time the people selected eight men, who not only provided for the safety of the colony, but as representatives of the people sent a protest against Kieft's administration to the West India Company and the States-General, in consequence of which Kieft was recalled.

The new Director, Peter Stuyvesant, under instructions from the West India Company, gave the people a voice in public affairs by permitting them to nominate eighteen persons from whom he and his council selected nine to confer "on all means to promote the welfare of the country." These nine, however, whose powers were simply advisory, could only meet when summoned by the Director, and could only consider such questions as were submitted to them.

Transfer to the English; The Government.—In September, 1664, New Netherland passed from the control of the Dutch into that of the English, and became the Province of New York. In 1665, Governor Nichols called a meeting of the colonists at Hempstead, at which he outlined the new government as provided by the

“Duke’s Laws,” the name given to his instructions from the Duke of York, who had been granted the province by his brother, Charles II. By this scheme all powers were vested in a Governor appointed by the Duke, though courts of justice were established, taxes were limited and the rights of the colonists were recognized by the provision that “no man shall be molested, fined or imprisoned for differing in matters of religion.”

The Assembly.—The first actual participation of the people of New York in the government of the province was secured in 1683. Thomas Dongan, the new Governor, under his instructions, directed an election of not to exceed eighteen men which should constitute the lower house of a provincial legislature. The upper house was to consist of ten men appointed by the Governor, who besides forming one branch of the legislature should be an advisory council and a court of final appeal.

Charter of Liberties.—The first meeting of this legislature was held in October, 1683, at which time they passed the “Charter of Liberties,” in which it was announced that under the King and the lord proprietor “the supreme legislative authority shall forever be . . . in a governor, council and the people met in general assembly.” They also provided for the holding of elections at regular times and passed acts declaring that no freeman should be punished except by judgment of his peers, and that taxes should not be levied except by the consent of the provincial assembly. The Duke approved these acts, but two years later, having ascended the throne as James II., he revoked his assent, abolished the assembly, and in 1688 consolidated New York, which

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by his being King had become a royal province, with New England, under the governorship of Sir Edmund Andros.

The Assembly Made Permanent.—The Revolution of 1688 and the deposition of James led to the overthrow of the government in New York, and in the troublous days of 1689 to 1691 the executive powers were assumed by Jacob Leisler, who revived the assembly to assist him in the proper conduct of affairs. Leisler was succeeded in 1691 by Governor Sloughter, who made the assembly a permanent part of the government and approved its re-enactment of the "Charter of Liberties."

Growing Importance of Assembly.—The legislature thus established, consisting of the governor's council and the assembly elected by the people, continued in practically the same form until the War of Independence. From time to time, however, it increased its powers by the creation of new offices and by depriving the governor of former prerogatives. Thus, the abuses of Governor Cornbury (1702-1708) led to the appointment of a Treasurer to manage the provincial finances. For a long time the assembly met only at the call of the governor, but in 1737 it made annual sessions necessary by limiting appropriations of money, which had heretofore been made for indefinite periods, to one year; and in 1738 the assembly gained complete control of the provincial finances by inaugurating the custom of making specific appropriations for specific objects.

Growth of Private Rights: Freedom of the Press.—During this period the people were making equal progress in securing recognition of their private rights. The

most notable instance, and that which made the most lasting impression on state and national institutions, was the establishment of the freedom of the press. This was brought about through the trial and acquittal of John Philip Zenger (1732) on the charge of libel for criticising in the newspaper, which he edited, the administration of Governor Cosby.

New York and the Revolution.—During the period immediately preceding the Revolution, the cause of the colonies received hearty support in New York. The outbreak of hostilities found it ready to act, and on May 1, 1775, a "Committee of One Hundred" was organized to secure the coöperation of all the inhabitants of the colony in armed resistance to Great Britain. On May 22, 1775, the first "Provincial Congress" convened at New York. This revolutionary government assumed the powers of the old legislature and proceeded to "institute and establish a government . . . to secure the rights, liberties and happiness of the good people of the colony."

Other congresses followed on December 6, 1775, May 18, 1776, and at White Plains, July 9, 1776. The last approved the Declaration of Independence, adopted at Philadelphia July 4, and on July 10 changed its name to "The Convention of the Representatives of the State of New York." It assumed the conduct of New York's affairs in the war, and on August 1, 1776, appointed a committee, including, among others, John Jay, Gouverneur Morris, Robert R. Livingston and Robert Yates to prepare a "form of perpetual government," which was adopted April 20, 1777, as the First Constitution of the State of New York.

CHAPTER II.

THE STATE CONSTITUTIONS.

The State of New York has had four Constitutions, those of 1777, 1821, 1846, and the present one, adopted in 1894.

1. Constitution of 1777.—The Constitution of 1777 contained a review of the oppressive acts of the English government, a reference to the “resolve” of the Continental Congress recommending the establishment of a republican government in each colony, a statement approving the Declaration of Independence, and, as its first article, an assertion that :

“No authority shall . . . be exercised over the people and members of this State, but such as shall be derived from and granted by them.”

The State Government was divided into three branches—Legislative, Executive and Judicial.

Legislative; Senate and Assembly.—The Legislature consisted of a Senate and Assembly, the Senate composed of not less than twenty-four nor more than one hundred freeholders, elected from four senate districts for terms of four years; the Assembly composed of not less than seventy, nor more than three hundred members elected by counties annually.

Officers and Powers.—The presiding officer of the Senate was the Lieutenant-Governor, and that of the Assembly, a Speaker, selected by it from its own number. Each house was the judge of its own members, and in each a majority constituted a quorum.

Executive; Governor.—The Governor was a freeholder, elected for a term of three years. He was commander-in-chief of the militia and admiral of the navy of the State. He had power to convene the legislature, and, except in the case of convictions for murder or treason, to grant pardons and reprieves. His principal duties were to issue an annual message, correspond with other States and the Continental Congress, and enforce the laws.

Lieutenant-Governor.—The Lieutenant-Governor, a freeholder, was elected at the same time and for the same term as the Governor, whom he succeeded in case of vacancy in that office, and was in turn succeeded by the president *pro tempore* of the Senate.

Executive Councils.—The power of appointment was vested in a Council of Appointment, consisting of the acting Governor and one Senator from each of the four senate districts. Another council, the Council of Revision, consisting of the acting Governor, the Chancellor and Judges of the Supreme Court, was empowered to revise the acts of the legislature—a power similar to the veto power of the President. There was also a State Treasurer chosen by the legislature.

Judicial.—The Courts of the State were as follows:

A Court for the trial of Impeachments and Correction of Errors, consisting of the president of the Senate, the Senators, the Chancellor and the Judges of the Supreme Court. As a Court of Impeachment it possessed powers similar to those of the United States Senate. (See Book I., page 156.) As a Court for the Correction of Errors, it heard appeals from the Court of Chancery, and from the Supreme Court.

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The Court of Chancery, first established in 1683. It possessed equity jurisdiction (see Book I., page 162) and was presided over by the Chancellor.

The Supreme Court, established in 1691, with power to try law cases (see Book I., page 162), civil and criminal, and was called a Court of Oyer and Terminer * when trying persons charged with crimes.

The Court of Common Pleas, established in 1686, was continued in the several counties with limited civil jurisdiction.

The Court of Sessions, established in 1683, was preserved in each county with criminal jurisdiction.

Justice Courts, established in the early colonial period, were continued in towns and counties with petty civil and criminal jurisdiction.

Suffrage and Elections.—The right of suffrage was limited to free male citizens of full age with certain property qualifications, among which was one requiring that the voter must be a freeholder to vote for Governor or Senators. It was provided that the legislature might require elections to be by ballot, which was first done in 1778 in the case of Governor, and in 1787 in the election of members of the legislature.

Delegates to Congress were made elective by the legislature. The Chancellor, Judges of the Supreme Court, County Judges, Sheriffs and several other officers were named by the Council of Appointment. Town officers, as supervisors, town clerks, etc., were elective.

Bill of Rights.—Among the protective provisions of

* *Oyer and Terminer.*—A legal term meaning “to hear and decide.”

the Constitution it was guaranteed that no man should be disfranchised or deprived of any of his rights unless by law of the land, or the judgment of his peers ; that no man should be hindered in the free exercise of religion or the right to bear arms ; that no acts of attainder should be passed ; and that ministers of the gospel were ineligible to hold office.

2. The Constitution of 1821; Legislative.—By the second Constitution the Senators were to be elected from eight Great Districts, and the Assembly was to consist of one hundred and twenty-eight members; no member of the legislature could at the same time be a member of Congress, or hold any office under the United States or any civil office by appointment of the Governor of the State.

Executive.—To the qualifications for Governor and Lieutenant-Governor it was added that they should be native-born citizens of the United States, thirty years of age and five years residents of the State; and the term of office was reduced to two years. In addition to the Governor's powers under the former constitution he was given the power of appointment with the consent of the Senate, and a qualified veto power similar to that of the President.

The Councils of Appointment and Revision were abolished.

Other executive officers were the Treasurer, Secretary of State, Comptroller, Attorney-General, Surveyor-General, and Commissary-General, all of whom were to be chosen by the legislature.

Judicial.—The former Courts were continued, but it was provided that the State might be divided by the leg-

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islature into not less than four or more than eight judicial districts, called Circuits, for each of which there should be appointed a Circuit Judge, who was to possess the same powers as Supreme Court Judges in the trial of cases at law. The Courts held by these judges were called Circuit Courts.

Suffrage and Elections.—A property qualification was attached to the right of suffrage, as under the Constitution of 1777, and in the case of free negroes there were additional requirements as to the ownership of property. All elections, except for town officers, were required to be by ballot. Sheriffs were made elective by counties for terms of three years, but were made ineligible to succeed themselves.

Amendments.—The principal amendments to this Constitution were as follows:

1826. Property qualifications of voters were removed except in the case of negroes.

1845. All property qualification for office-holders was abolished.

3. The Constitution of 1846.—The third Constitution contained a Bill of Rights, the provisions of which are retained in the present Constitution and will be considered in the examination of the latter document. There is one section, however, which demands a word at this place.

Lease of Agricultural Lands.—Under the Dutch and English systems for the disposition of lands, large tracts had fallen into the possession of individuals or companies, who rented farms on long-term leases, at the end of which the land and all improvements on it returned to the owner. This system became very burdensome, and

in 1839 the tenants of the Van Rensselaer estate began to resist the collection of the rents. From the contest which followed, a new political party was formed favoring the "anti-renters," as they were called, which gained such influence that a provision was inserted into the new Constitution that:

No lease or grant of agricultural lands for a longer term than twelve years, hereafter made, in which shall be reserved rent or service of any kind, shall be valid.

Legislative.—Under the third Constitution, the Senate consisted of thirty-two members, elected for terms of two years, one from each of thirty-two senatorial districts, and the Assembly composed of one hundred and twenty-eight members, elected annually. A majority in each house constituted a quorum, and the members were protected in the same manner as members of Congress (see Book I., pages 70, 71). Bills could originate in either house, but restrictions were placed upon the character of bills which could be passed.

Executive.—The term of the Governor and Lieutenant-Governor was extended to three years. The Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor were made elective officers with terms of two years.

Judicial.—Under this Constitution and its amendments, the Court for the Trial of Impeachment and Correction of Errors, the Court of Chancery, and, except in New York County, the Court of Common Pleas, were abolished, and the following courts were established:

A Court for the Trial of Impeachment, composed of the president of the Senate, the Senators and the Judges

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of the Court of Appeals, in which form it is continued in the present Constitution.

A Court of Appeals with appellate jurisdiction only, consisting of seven judges, elected for terms of fourteen years by the voters of the whole State.

The Supreme Court was continued, but its jurisdiction was extended so as to include that of the Circuit Courts and the Court of Chancery. The Justices of the Supreme Court, who also presided over the Courts of Oyer and Terminer, were elected for fourteen years by the voters of judicial districts, into which the State was divided.

County Courts were given the same jurisdiction as before, and County Judges were made elective for terms of six years.

Justice Courts were continued, Justices of the Peace being elected in each town for terms of four years.

Suffrage and Elections.—As finally settled by the amendment of 1874, the right of suffrage was limited to male citizens, twenty-one years of age, without any property or race qualification. But the buying and selling of votes and other like offenses were declared grounds for depriving the guilty person of the right to vote at the election when the act occurred.

The Present Constitution.—The Constitution of 1846 continued in force until January 1, 1895, when it was superseded by the present Constitution, framed by a Constitutional Convention, which met at the City of Albany in the summer of 1894, and adopted by the people of the State at the general election held in November of that year.

PART SECOND.

THE STATE GOVERNMENT.

CHAPTER I.

THE BILL OF RIGHTS.



The first article of the Constitution of the State of New York resembles the first eight amendments to the Constitution of the United States, and consists of the following provisions, intended to protect the citizen in the enjoyment of his personal rights.

Rights Guaranteed.—No member of this State shall be disfranchised,* or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.† (Sec. 1.)

Trial by Jury.—The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever; but a jury trial may be waived‡ by the parties in all civil cases in the manner to be prescribed by law. (Sec. 2.)

A jury may be rightfully demanded by a person charged with the commission of a crime, and in many civil actions; but the right does not extend to cases in equity.

Religious Liberty.—The free exercise and enjoyment of relig-

* *Disfranchise.*—To deprive a person of the right to vote or hold office.

† *Peers.*—See Book I., page 21.

‡ *Waive.*—To relinquish a right which one may enforce.

ious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State. (Sec. 3.) (See Book I., page 183.)

Habeas Corpus.—The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension. (Sec. 4.) (See Book I., page 108.)

Bail; Fines.—Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained. (Sec. 5.) (See Book I., page 185.)

Rights of Accused.—No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service, and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace, and in cases of petit larceny, under the regulation of the Legislature), unless on presentment or indictment of a grand jury, and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use, without just compensation. (Sec. 6.) (See Book I., page 185.)

This provision does not prevent a person accused of crime from testifying in his own behalf, but if he does so, he loses the protection given by this section and becomes subject to the same rules of examination as other witnesses.

Private Property.—When private property shall be taken

for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damage to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited. General laws may be passed permitting the owners or occupants of agricultural lands to construct and maintain for the drainage thereof, necessary drains, ditches and dikes upon the lands of others, under proper restrictions and with just compensation, but no special laws shall be enacted for such purposes. (Sec. 7.)

Effect has been given to the provisions relating to private roads by statutes, which direct that a person desiring to open a private road through the lands of another must make application in writing to the highway officers of the town where the land is situated. A jury is then called to investigate the matter and determine the necessity of the road and the compensation to be given to the owner of the land. The road so laid out does not become a public thoroughfare, but is only for the use of the applicant and those to whom he transfers his right. The statutes provide similar proceedings to empower a person to drain his land across the premises of another.

Freedom of Speech; Libel.—Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the

jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. (Sec. 8.) (See Book I., page 184.)

Right to Assemble; Divorce; Lotteries.—No law shall be passed abridging the right of the people peaceably to assemble and to petition the government, or any department thereof; nor shall any divorce * be granted otherwise than by due judicial proceedings; nor shall any lottery † or the sale of lottery tickets, pool selling, book making, or any other kind of gambling hereafter be authorized or allowed within this State; and the Legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section. (Sec. 9.) (See Book I., page 184.)

Escheats.—The people of this State, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail, from a defect of heirs, ‡ shall revert § or escheat ¶ to the people. (Sec. 10.)

Feudal Tenures Abolished.—All feudal tenures ¶ of every description, with all their incidents, are declared to be abolished, saving, however, all rents and services certain which at any time heretofore have been lawfully created or reserved. (Sec. 11.)

* **Divorce.**—The dissolution or partial suspension of the marriage relation.

† **Lottery.**—A scheme for the distribution of property by chance.

‡ **Defect of Heirs.**—A condition existing when a person dies without relatives.

§ **Revert.**—To return to.

¶ **Escheat.**—To return to or become forfeited to.

¶ **Feudal Tenure.**—The right of a person, called a vassal, to hold lands on condition of performing certain fixed services and rendering allegiance to a superior lord. Among the incidents of feudal tenures were :

Aids.—Money tribute levied by the lord upon the vassal.

Reliefs.—Money consideration demanded of the vassal's heir to entitle him to succeed to the rights of his ancestor.

Fines.—Money consideration exacted by the lord from the vassal for permission to transfer his estate to another.

Allodial Tenures.—All lands within this State are declared to be allodial,* so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates. (Sec. 12.)

Leases of Agricultural Lands.—No lease or grant of agricultural land, for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid. (Sec. 13.) (See page 14.)

This section makes void two or more simultaneous leases of the same agricultural lands to the same person, the sum of whose terms exceeds twelve years.

Fines and Quarter-sales Abolished.—All fines, quarter-sales,† or other like restraints upon alienation reserved in any grant of land hereafter to be made shall be void. (Sec. 14.)

Purchase of Indian Lands.—No purchase or contract for the sale of lands in this State, made since the fourteenth day of October, one thousand seven hundred and seventy-five; or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority, and with the consent of the Legislature. (Sec. 15.)

Damages for Injuries Causing Death.—The right of action now existing to recover damages for injuries resulting in death shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation. (Sec. 18.)

The right of action guaranteed by this section arises when death is caused by the carelessness or negligence of another. By the common law (see Book I., page 162) an injured person had the right to recover damages for injuries to his person caused by negligence, but there could be no recovery in case of his death. The Legislature in 1847

* *Allodial.*—Independent ownership, without a superior to whom any service or duty is due.

† *Quarter-sales.*—A term applied to a provision formerly inserted in leases which required the lessee, if he sold his lease to another person, to pay to the lessor a certain portion of the purchase price.

extended the right of action to cases resulting in death. In 1849 the amount which could be recovered was limited to five thousand dollars, at which amount it remained until the adoption of the present Constitution. The action provided for by this section is begun by the executor or administrator (see Book I., page 213) of the person killed, and the money recovered becomes a part of the estate of the dead person.

CHAPTER II.

THE LEGISLATURE.

Divisions of Government.—The government of the State of New York consists of three distinct branches—the legislative, executive and judicial. By the Constitution it is provided that:

The legislative power of this State shall be vested in the Senate and Assembly. (Art. III., Sec. 1.)

These two bodies constitute the Legislature.

Qualifications of Members.—The Constitution does not prescribe the qualifications necessary for election to the legislature, but it provides that:

No person shall be eligible to the Legislature who, at the time of his election, is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or an officer under any city government. And if any person shall, after his election as a member of the Legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat. (Art. III., Sec. 8.)

By statute it is also provided that no person shall be elected to the Legislature who has been convicted of bribery, violation of his oath as a public officer, the commission of a serious crime, or unless he be of full age, a citizen of the United States and a resident of the State and senatorial or assembly district which he represents. (See Book I., page 67.)

Legislators to Hold No Other Office.—For the purpose of ensuring the continued and undivided service of the persons elected to the Legislature, a section, similar to that of the United States Constitution (see Book I., page 59), provides that:

No member of the Legislature shall receive any civil appointment within this State, or the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, or from any city government, during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void. (Art. III., Sec. 7.)

Time of Election.—The elections of senators and members of assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the Legislature. (Art. III., Sec. 9.)

The object of this section is to simplify elections and reduce the expense and excitement attending them by adopting for this purpose the same day as that prescribed by Congress for the holding of a General Election.

Senators and Assemblymen.—The Constitution provides that:

The Senate shall consist of fifty members, *except as hereinafter provided*. The senators elected in the year one thousand eight

hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for *two years*. The Assembly shall consist of one hundred and fifty members, who shall be chosen for *one year*. (Art. III., Sec. 2.)

Senate Districts.—Members of the Legislature are not elected by the voters of the State, at large, but from small divisions called Districts. In the case of Senators the Constitution directs that:

The State shall be divided into fifty districts, to be called senate districts, each of which shall chose one senator. The districts shall be numbered from one to fifty inclusive. (Art. III., Sec. 3, Cl. 1.)

In pursuance of this provision the State is at present (1902) divided by counties into the following districts:

1, Suffolk, Richmond; 2, Queens, Nassau; 3-9, Kings; 10-21, New York; 22, Westchester; 23, Orange, Rockland; 24, Dutchess, Columbia, Putnam; 25, Ulster, Greene; 26, Delaware, Chenango, Sullivan; 27, Montgomery, Fulton, Hamilton, Schoharie; 28, Saratoga, Schenectady, Washington; 29, Albany; 30, Rensselaer; 31, Clinton, Essex, Warren; 32, St. Lawrence, Franklin; 33, Otsego, Herkimer; 34, Oneida; 35, Jefferson, Lewis; 36, Onondaga; 37, Oswego, Madison; 38, Broome, Cortland, Tioga; 39, Cayuga, Seneca; 40, Chemung, Tomkins, Schuyler; 41, Steuben, Yates; 42, Ontario, Wayne; 43-44, Monroe; 45, Niagara, Genesee, Orleans; 46, Allegany, Livingston, Wyoming; 47-49, Erie; 50, Chautauqua, Cattaraugus.

Census and Reapportionment.—As the population of the State is constantly changing, and is not increasing equally in all sections, any fixed and unchangeable division of the State would result in unequal representation, and to correct such an evil it is provided that:

An enumeration of the inhabitants of the State shall be taken under the direction of the Secretary of State, during the months of

May and June, in the year one thousand nine hundred and five, and in the same months every tenth year thereafter; and the said districts shall be so altered by the Legislature at the first regular session after the return of every enumeration, that each senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall remain unaltered until the return of another enumeration, and shall at all times, consist of contiguous territory, *and no county shall be divided in the formation of a senate district, except to make two or more senate districts wholly in such county.* No town, and no block in a city, inclosed by streets or public ways, shall be divided in the formation of senate districts; nor shall any district contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein, adjoining such district. Counties, towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.

No county shall have four or more senators unless it shall have a full ratio for each senator. No county shall have more than one third of all the senators; and no two counties, or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one half of all the senators.

The ratio for apportioning senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty, and the Senate shall *always be composed of fifty members, except* that if any county having three or more senators at the time of any apportionment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county, in addition to the fifty senators, and the whole number of senators shall be increased to that extent. (Art. III., Sec. 4.)

The foregoing section makes provision for:

- (a) A state census, once every ten years, distinct from that provided for by the United States Constitution.
- (b) A redistricting of the State by the Legislature in

such a manner that while a county may be divided into two or more districts, or two or more counties may be joined into one district, no county will lose its identity by having a portion of it annexed to another county.

(c) Keeping the senatorial power out of the hands of one section of the State by the direction that, regardless of population, no county, as New York, can have more than one third of all the senators, nor any two adjoining counties, as New York and Kings, can have more than one half of the full number.

(d) Increasing the whole number of senators when the population of a county is such as to warrant it.

EXAMPLE.—The population of the State in 1892 was 6,513,343. Dividing this number by 50, the ratio for senatorial districts was 130,267. At that time the population of Albany County was 167,289—less than a ratio and one half—and it was given one senate district. Monroe County had a population of 200,056—more than a ratio and one half, but less than two ratios—and it was given two senate districts. Kings County with a population of 995,276—7 full ratios and 83,407 in addition—was given but 7 districts. *But had the population of Kings County been 1,042,136, or 8 full ratios, it would have been given 8 senate districts, although by so doing, the whole number of senators would have been increased to 51.*

Assembly Districts.—The members of the Assembly shall be chosen by single districts, and shall be apportioned by the *Legislature* at the first regular session after the return of every enumeration among the several counties of the State, as nearly as may be according to the number of their respective inhabitants, excluding aliens. *Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of assembly, and no county shall hereafter be erected unless its population shall entitle it to a member.*

The county of Hamilton shall elect with the county of Fulton,

until the population of the county of Hamilton shall, according to the ratio, entitle it to a member. But the Legislature may abolish the said county of Hamilton and annex the territory thereof to some other county or counties. (Art. III., Sec. 5, Cl. 1.)

In pursuance of this section the members of Assembly are apportioned as follows:

Counties entitled to Two Assemblymen.—Broome, Cattaraugus, Cayuga, Chautauqua, Dutchess, Jefferson, Niagara, Orange, Oswego, Queens, St. Lawrence, Steuben, Suffolk, Ulster.

Counties entitled to Three Assemblymen.—Oneida, Rensselaer, Westchester.

Counties entitled to Four Assemblymen.—Albany, Monroe, Onondaga.

Erie, *eight members*; Kings, *twenty-one members*; and New York, *thirty-five members*.

All other counties, *one member each*.

Reapportionment of Assemblymen.—Members of Assembly are reapportioned after every state census, and for that purpose the following rule was established:

The quotient obtained by dividing the whole number of inhabitants of the State, excluding aliens, by the number of members of assembly, shall be the ratio for apportionment, which shall be made as follows: *One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one half over. Two members shall be apportioned to every other county.* The remaining members of assembly shall be apportioned to the counties having more than two ratios according to the number of inhabitants, excluding aliens. Members apportioned as remainders shall be apportioned to the counties having the highest remainders on the order thereof respectively. No county shall have more members of assembly than a county having a greater number of inhabitants, excluding aliens. (Art. III., Sec. 5, Cl. 2.)

In any county, entitled to more than one member, the board of supervisors, and in any city embracing an entire county and

having no board of supervisors, the *common council*, or if there be none, the body exercising the powers of a common council, shall . . . divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of convenient and contiguous territory in as compact form as practicable, . . . and such districts shall remain unaltered until another enumeration shall be made . . . (Art. III., Sec. 5, Cl. 4.)

Under this rule the number of members to which each county is entitled is determined by the *legislature*, while the actual division of the county is made either by the *board of supervisors* or by the *common council* of the city which embraces an entire county. Further portions of this section provide that in counties having more than one senate district, the same number of assembly districts shall be put in each senate district; that towns and city wards shall not be divided in the formation of assembly districts, and that any apportionment or distribution is subject to review by the Courts. (For full section see Appendix.)

EXAMPLE.—The population of the State in 1892, 6,513,343, divided by 150, gives the ratio for assembly districts 43,422. Alleghany County with a population of 43,131 was given one member. Saratoga County with a population of 57,301, less than a ratio and one half, received but one member. Jefferson County with a population of 70,358 received two members, as did all other counties having a population greater than a ratio and one half.

To the counties having less than a ratio and one half, 36 members were apportioned, to the other 23 counties, 2 each were given, making a total of 82. The other members, 68 in all, were apportioned to the counties having more than two ratios, according to their population. To Queens County with a population of 141,807—being three ratios and 18,541 in addition—only 3 members were given, while Onondaga County with a population of

150,808—being three ratios and 20,542 in addition—received 4 members. The reason for this is that the “remainder” in the case of Onondaga was greater than the “remainder” in the case of Queens.

Compensation of Members.—Each member of the Legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they travel in going to and returning from their place of meeting, once in each session on the most usual route. Senators, when the Senate alone is convened in extraordinary session, or when serving as members of the Court for the Trial of Impeachments, and such members of the Assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day. (Art. III., Sec. 6.)

Protection to Members.—Not only are members of the Legislature paid for their services, but they are protected from investigation and annoyances by lawsuits for their conduct in the performance of their legislative duties by a provision similar to that of the United States Constitution (see Book I., page 71), that:

For any speech or debate in either house of the Legislature, the members shall not be questioned in any other place. (Art. III., Sec. 12)

Political Year; Sessions.—The political year and legislative term shall begin on the first day of January; and the Legislature shall, every year, assemble on the first Wednesday in January. (Art. X., Sec. 6.)

The annual session of the Legislature is held at the city of Albany in rooms in the State Capitol, called, respectively, the Senate Chamber and Assembly Chamber. The formalities of organization and election of officers are very similar to those which occur at the opening of a session of Congress. (See Book I., page 71.)

Methods; Committees.—The Legislature resembles Congress in its officers and organization, and its method of work is similar to that of the national body. Business is largely conducted by means of committees, appointed in the Assembly by the Speaker and in the Senate by the president subject to the action of the Senate, whose duties and work are similar to those of the committees of Congress. (See Book I., page 77.) Among the Committees of the Legislature are:

Senate.—Finance, Judiciary, Affairs of Cities, Rail roads.

Assembly.—Ways and Means, Judiciary, General Laws, Codes.

Powers of the Legislature.—The power of the Legislature is mainly that of making laws—announcing the public will. Under this power the Legislature may provide for the control of corporations, the conduct of business, the definition and punishment of crimes, the creation of courts, the erection of new counties, the levying of taxes, the making of public improvements, the appropriation of moneys, the supervision of trades, professions, schools and health, or any of the myriad questions which arise in the government of a state. It deals with vastly more subjects than Congress, for it has to do with the every-day concerns of the people. But in matters of purely local interest:

The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the Legislature may from time to time deem expedient. (Art. III., Sec. 27.)

Besides possessing legislative powers the Legislature may

elect certain officers as United States Senators (see Book I., page 65), Regents of the University and Superintendent of Public Instruction (see page 44), and may remove from office Judges of the Court of Appeals and Justices of the Supreme Court (Art. VI., Sec. 11). The Senate has also the right to confirm appointments by the Governor (see Book I., page 129), the right to remove certain judges (Art. VI., Sec. 11), and is a part of the Court for the Trial of Impeachment (Art. VI., Sec. 13), while the Assembly has the sole power of impeachment. (*Id.*)

Powers of Each House.—Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members; shall choose its own officers; and the Senate shall choose a temporary president to preside in case of the absence or impeachment of the Lieutenant-Governor, or when he shall refuse to act as president, or shall act as Governor. (Art. III., Sec. 10.) (See Book I., pages 69, 72, 77.)

Officers.—The principal officers of the Senate, besides the president, who is the Lieutenant-Governor, and the temporary president, are a Clerk, Sergeant-at-Arms, and Doorkeeper. In the Assembly the principal officers are the Speaker, who is a member of the body with a right to vote, a Clerk, Sergeant-at-Arms, and Doorkeeper.

Duties of the Legislature.—Besides the execution of its powers, the Constitution enjoins upon the Legislature certain duties, among which are the following:

Each house shall keep a journal of its proceedings, and publish the same, except such parts as shall require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days. (Art. III., Sec. 11.) (See Book I., pages 71, 79.)

Prison Labor; Contract System Abolished.—The Legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof. (Art. III., Sec. 29.)

Quorum.—A majority of each house shall constitute a quorum to do business. (Art. III., Sec. 10.)

By this is meant a quorum for the transaction of ordinary business. But by Section 25 it is provided that :

On the final passage in either house of the Legislature, of any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges, or commutes any claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and *three-fifths of all the members elected to either house shall, in all cases, be necessary to constitute a quorum therein.*

Again it is provided by Art. IV., Section 9, that a two-thirds vote of the members elected to the house is necessary to pass a bill over the Governor's veto, from which it results that two-thirds are necessary to constitute a quorum for that purpose. So, also, two-thirds are necessary to take final action on bills "appropriating

the public moneys or property for local or private purposes." (Act III., Sec. 20.)

Bills May Originate in Either House.—Any bill may originate in either house of the Legislature, and all bills passed by one house may be amended by the other. (Art. III., Sec. 13.)

Their progress is similar to that of bills in the two houses of Congress (see Book I., page 77), but in order to make them effective it is required that:

The enacting clause of all bills shall be "The People of the State of New York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill. (Art. III., Sec. 14.)

Vote on Bills.—In order that bills may have the consideration they deserve, and that all members may be given full opportunity to inform themselves upon each measure, it is provided that:

No bill shall be passed or become a law unless it shall have been printed and upon the desks of the members, in its final form, at least three calendar legislative days prior to its final passage, unless the Governor, or the acting Governor, shall have certified to the necessity of its immediate passage, under his hand and the seal of the State; nor shall any bill be passed or become a law, except by the assent of a *majority* of the members elected to each branch of the Legislature; and upon the last reading of a bill, no amendment thereof shall be allowed, and the question upon its final passage shall be taken immediately thereafter, and the yeas and nays entered on the journal. (Art. III., Sec. 15.)

We have seen, however, that in case of the passage of a bill over the Governor's veto, the vote of *two-thirds* of the members elected to each house is necessary, and a further section requires that:

The assent of two-thirds of the members elected to each branch of the Legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes. (Art. III., Sec. 20.)

Governor's Veto.—After the passage of a bill by both houses, the Governor enters into the legislation of the State in the same manner that the President becomes a part of the national law-making power (see Book I., page 117). The Constitution provides that:

Every bill which shall have passed the Senate and Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he will sign it; but if not, he will return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the Governor. In all such cases, the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall become a law after the final adjournment of the Legislature, unless approved by the Governor within thirty days after such adjournment. If any bill presented the Governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which

the bill originated a copy of such statement, and the items objected to shall be separately considered. If on reconsideration one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in relation to bills not approved by the Governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money. (Art. IV., Sec. 9.)

Limitations on Legislature.—The Legislature in its work is subject to “the law of the land” (see Book I., page 181), and whatever acts are passed in opposition either to the United States Constitution, the laws of Congress, or United States treaties, are void. Besides this limitation the action of the Legislature is restricted by the following prohibitions contained in the State Constitution:

Every law which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object. (Art. III., Sec. 24.)

The Legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor. (Art. III., Sec. 28.)

The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law. (Art. III., Sec. 19.)

No money shall ever be paid out of the treasury of this State, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which

it shall be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum. (Art. III., Sec. 21.)

No private or local bills, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title. (Art. III., Sec. 16.)

A private or local bill is one which relates to one person or one section of the State, and the limitation of such bills to one subject is to prevent the passage of noxious laws by inserting their provisions in some local bill where they would escape public notice.

And further, for the purpose of securing uniformity of action and to relieve the Legislature from the consideration of thousands of private or local demands, it is provided that:

The Legislature shall not pass a private or local bill in any of the following cases:

(1) Changing the names of persons. (2) Laying out, opening, altering or discontinuing roads, highways or alleys, or for draining swamps or other low lands. (3) Locating or changing county seats. (4) Providing for changes of venue in civil or criminal cases. (5) Incorporating villages. (6) Providing for election of members of boards of supervisors. (7) Selecting, drawing, summoning or impaneling grand or petit jurors. (8) Regulating the rate of interest on money. (9) The opening and conducting of elections or designating places of voting. (10) Creating, increasing or decreasing fees, percentages or allowances of public officers, during the term for which said officers are elected or appointed. (11) Granting to any corporation, association or individual the right to lay down railroad tracks. (12) Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever. (13) Granting to any person, association, firm, or corporation, an exemption from taxation on real or personal property. (14) Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the State.

The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the Appellate Division of the Supreme Court, in the department in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners. (Art. III., Sec. 18.)

Congress and the Legislature.—From the foregoing examination the following points of similarity are observed between the Legislature of New York and Congress: Each is composed of two houses, one (the Senate), is small and consists of representatives elected for long terms from relatively large districts; the other (the House of Representatives and the Assembly), is large and composed of representatives elected by popular vote for short terms from small districts. In each the concurrent action of both houses is necessary to produce legislation; in general, the method of legislation is the same; and over the work of each the executive branch possesses the veto power. The most noticeable difference between the Legislature and Congress is that Congress can exercise *only* those powers granted to it by the Constitution, while the Legislature can exercise *any* power not expressly prohibited by the Federal and State Constitutions.

CHAPTER III.

THE EXECUTIVE BRANCH.

1. THE GOVERNOR AND LIEUTENANT-GOVERNOR.

Likeness to President.—As in the National Government, the executive power of the State is vested in a single officer, called a Governor, who is elected in even numbered years for a term of two years. (Art. IV., Sec. 1.) Associated with him, in much the same relation as the Vice-President sustains to the President, is a Lieutenant-Governor, elected for the same term.

Qualifications and Election.—Next to the President of the United States, the Governor of the State of New York, with its vast population and numerous interests, occupies the most responsible executive office in the gift of the people; and to secure a person of sufficient experience and judgment, the Constitution provides that:

No person shall be eligible to the office of Governor or Lieutenant-Governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceeding his election a resident of this State.

The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor, the two houses of the Legislature at its next annual session shall forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor or Lieutenant-Governor. (Art. IV., Sections 2 and 3.)

Oath of Office.—The Governor and Lieutenant-Governor assume office on the first day of January following their election, but before exercising their power they must, like all other state officers, take the following oath or affirmation:

I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability.

And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute any money, or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote. (Art. XIII., Sec. 1.)

Salary.—The Governor receives as compensation an annual salary of \$10,000, besides a “suitable and furnished executive residence” at Albany. The Lieutenant-Governor receives a salary of \$5,000 per year.

Powers.—By virtue of his office, the Governor is “Commander-in-Chief of the Military and Naval Forces of the State.” He is empowered “to convene the Legislature or the Senate only on extraordinary occasions,” when, however, “no subject shall be acted upon except such” as he shall recommend. He may, subject to legal regulations, grant pardons, reprieves and commutations, except in cases of treason and impeachment, and may suspend execution of sentence for treason,

until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve.

He may appoint, by and with the advice of the Senate, certain state officers, and fill vacancies in such offices during the recess of the Senate. He may also, for cause, suspend certain state officers, and remove others, as well as county officers, after a hearing upon charges prepared against them.

Duties.—On the other hand, he is required to “communicate by message to the Legislature at every session the condition of the State,” together with recommendations as to legislative action. He must “take care that the laws are faithfully executed,” and to that end may call out the militia of the State. He must report to the Legislature

each case of reprove, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation. pardon, or reprieve.

Besides these powers and duties the Legislature is constantly adding others, in order to give effect to legislative acts.

Succession to Governorship.—In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State, in time of war, at the head of a military force thereof, he shall continue Commander-in-Chief of all the military force of the State. (Art. IV., Sec. 6.)

The Lieutenant-Governor is in turn succeeded in the office of Governor by the President of the Senate and the Speaker of the Assembly.

Duties of Lieutenant-Governor.—The Lieutenant-Governor, besides being the possible successor to the office of Governor, is President of the Senate, but with a vote only in case of a tie. He is also a member of the Court for Trial of Impeachment, except upon the trial of the Governor.

2. ADMINISTRATIVE OFFICERS.

Federal and State.—We have seen (see Book I., page 134) that the President in the execution of his powers and duties is assisted by various so-called Executive Departments, the heads of which, forming his cabinet, receive their office by his appointment subject to the consent of the Senate. So, also, in the state government, the Governor acts and is assisted by numerous officers, some of whom are elected by the people, others appointed by the Governor with the consent of the Senate, and still others chosen by joint ballot of the Senate and Assembly. These officers do not, however, form a cabinet, and are each responsible for the conduct of their official duties.

1. OFFICERS ELECTED BY THE PEOPLE.

The officers elected by the people of the State are chosen at the same time as the Governor for terms of two years each, and are:

Secretary of State.—He is the keeper of the great seal of the State and the custodian of the state records. He superintends the publication of the laws, directs the taking of the state census, issues land grants, commissions, and certificates of incorporation to and receives reports from corporations. He is required to make an

annual report to the Legislature containing among other items, statistics of crime and pauperism in the State. He receives an annual salary of \$5,000.

Comptroller.—He is the auditor of public accounts, superintends the collection of taxes, manages state moneys, makes loans and issues warrants to the Treasurer for payment of the expenses of the State. He receives an annual salary of \$6,000.

Treasurer.—He is the custodian of state moneys, which he receives from the Comptroller and pays out on warrants of that officer. The Treasurer may, for cause, be suspended from office by the Governor during a recess of the Legislature, during which time the Governor may appoint a person to discharge the duties of the office. He receives an annual salary of \$5,000.

Attorney-General.—He is the law officer of the State and the legal adviser of other state officers. He attends each session of the Court of Claims, and sees that the interests of the State are protected. It is his duty to bring a suit to remove public officers who shall violate the provisions of the Constitution relative to passes. But he is not charged, unless directed by the Governor, with the prosecution of persons accused of crimes, that duty being performed by the District Attorneys in the several counties. He receives an annual salary of \$5,000.

State Engineer and Surveyor.—He must be a practical civil engineer. His principal duties consist in the making of surveys and maps of the public lands and work connected with the construction and repair of canals. He also has charge of the laying out and construction of

highways, of which the State bears a part of the cost. He receives an annual salary of \$5,000.

Ex-Officio Positions of Elected Officers.—The Governor, Lieutenant-Governor and other executive officers elected by the people are, by virtue of their offices, members of certain public boards, commissioners of state funds, and trustees of certain institutions, as shown in the following table:

Ex-officio positions indicated by x .		Governor.	Lieut.-Governor.	Secretary of State.	Comptroller.	Treasurer.	Attorney-General.	State Engineer and Surveyor.	
Trustee of certain State buildings....	x	x							
Regent of the University.....	x	x	x						
Trustee of Union College.....	x	x	x	x	x	x	x		
“ “ Cornell University.....	x 1	x							
“ “ State Instituto for Feeble-Minded Children.....	x	...	x	x					
Commissioner of Land Office.....	....	x	x	x	x	x	x	x	
“ “ Canal Fund.....	....	x	x	x	x	x	x		
Member of Canal Board .....	....	x	x	x	x	x	x	x	3
“ “ State Board of Equalization of Assessments....	....	x	x	x	x	x	x	x	
“ “ State Board of Canvassers	....	....	x	x	x	x	x	x 2	

1 The Governor is also a trustee of Syracuse University and of the State Soldiers' Home.

2 The State Engineer and Surveyor is also a member of the Board of Quarantine Commissioners.

3 The Superintendent of Public Works is a member of the Canal Board.

2. OFFICERS CHOSEN BY JOINT BALLOT OF THE LEGISLATURE.

Superintendent of Public Instruction, who has a term of three years, and receives an annual salary of \$5,000.

His powers and duties will be considered later (see page 118).

Nineteen Regents of the University of the State of New York, who are chosen for life and receive no compensation. Their powers and duties will be considered later (see page 111).

3. OFFICERS APPOINTED BY GOVERNOR WITH CONSENT OF SENATE.

Superintendent of Public Works, who holds office until the close of the term of the appointing Governor, and until his successor is appointed. He has control of the construction, repair and navigation of the canals, appoints superintendents, and directs expenditures of money appropriated for improvements authorized by the Legislature. He may, for cause, be suspended or removed from office by the Governor. He receives an annual salary of \$6,000.

Superintendent of Insurance, whose term of office is three years, and until his successor is appointed. He grants permission to conduct business to, and has supervision of, life, fire and other insurance companies operating within the State. He must require from companies of other States or countries a deposit for the protection of policy holders within the State. He receives an annual salary of \$7,000.

Superintendent of Banking, whose term is three years and until his successor is appointed. He has supervision of all banks organized under the laws of this State; and they must deposit with him funds to guarantee the payment of the bank notes they issue, and make to him

quarterly reports of their transactions. He also supervises trust, loan, and guaranty companies and building and loan associations, from which he receives semi-annual reports. From these reports he is required to make annually a report to the Legislature. He receives an annual salary of \$7,000.

Superintendent of Prisons, whose term is five years. He has general supervision of the conduct of state prisons, and appoints agents, wardens, physicians and chaplains. Wardens appoint other prison officers. He is required to make an annual report to the Legislature, and receives an annual salary of \$6,000.

Commissioner of Health, whose term is four years. He has charge of the health of the State, and is required to investigate causes of disease, especially of epidemics, and the effects of employment and other conditions upon public health. He may examine into and abate public nuisances, and in the interest of general health investigate and regulate the manufacture and sale of foods, drugs, and liquors. He has general supervision of local boards of health, from which he collects and tabulates statistics relative to births, deaths, marriages and diseases. He receives an annual salary of \$3,500.

Commissioner of Agriculture, whose term is three years. He is charged with the execution of the laws relative to agriculture and the manufacture and sale of farm products. For this purpose he may appoint expert butter and cheese makers and other agents to inspect factories, and attend fairs and similar meetings to give instruction. He may investigate contagious diseases among domestic animals, and may condemn and kill infected

cattle, sheep, and bees; and he may also employ the necessary means to stop the spread of such diseases and destroy insects and pests destructive to fruit trees, vines, and plants. To accomplish these duties he and his assistants are entitled to free access to all farms, factories, cars, or other places in which any branch of farming or manufacturing and transportation of dairy and agricultural products is being conducted. He receives an annual salary of \$4,000, and expenses not to exceed \$500.*

Forest, Fish and Game Commissioner, whose term is four years. Until January 1, 1903, he is assisted by two associate Commissioners, serving without salary. He has charge of the propagation, distribution and protection of food-fish and game, and the enforcement of laws relative to hunting and fishing; and for this purpose he may appoint necessary officers. He is also empowered to acquire forest lands for the State; and he has general charge of the forests of the State, especially in reference to tree-planting and forest fires. After January 1, 1903, the Governor may designate two Commissioners of the Land Office to act with the Commissioner in the conduct of his powers and duties in relation to forests. He receives an annual salary of \$5,000 together with necessary expenses.

Commissioner of Labor, whose term is four years. He is charged with three duties, viz.:

1. *Factory Inspection*, in which he is assisted by fifty

* Under his charge are the agricultural stations at Geneva and Cornell University, where scientific investigations are made into the character of soils, fruits, seeds and fertilizers, and experiments are conducted in the practical operations of farming and stock-raising.

inspectors who examine the manufacturing establishments of the State and compel the observance of the laws passed for the safety and comfort of employees and the proper employment of minors.

2. *The Collection of Labor Statistics* with a view to ascertain the commercial, industrial and sanitary condition of laboring men and the industrial productiveness of the State.

3. *Mediation and Arbitration*, by which he endeavors to adjust differences between employer and employee, to settle strikes and remove the differences between "Capital" and "Labor."

He receives an annual salary of \$3,500.

Commissioner of Excise, whose term is five years. He is charged with the enforcement of the laws relative to the sale of liquors, and for this purpose appoints deputies for New York, Kings and Erie Counties, and sixty special agents to assist him in other sections of the State. It is his duty to see that the provisions of the law are observed, and in case of violation to bring actions to take away liquor licenses and to collect the fines fixed by law.

State Board of Charities, consisting of twelve members, whose terms are eight years each. The chief officers are the President and Vice-President elected annually by the Board. The principal duties of the Board are stated in the Constitution to be to

visit and inspect all institutions, whether State, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character, . . . including all reformatories, except those in which adult males convicted of felony shall be confined. (Art. VIII., Sec. 11.)

They make rules and may approve or disapprove all matters pertaining to the management of such institutions, investigate the conduct of officers, devise means to promote the health, the industrial education and moral training of inmates, and investigate and report to the Legislature measures to relieve pauperism. Each Commissioner receives \$10 for each day he serves, but the amount must not exceed \$500 per year. A Commissioner may be removed by the Governor, for cause, after a hearing in his defense.

Lunacy Commission, consisting of three members, whose terms are six years. The president of the commission must be a practicing physician, and at least one of the other members a practicing lawyer. It is their duty to

visit and inspect all institutions, either public or private, used for the care and treatment of the insane (not including institutions for epileptics or idiots); (*Id.*)

and over them the Commission possesses exclusive control. They also pass upon all expenditures and appoint agents whose duty it is to secure from relatives and friends of patients, who are financially competent, compensation for their support and attendance. Each Commissioner receives an annual salary of \$5,000, besides \$1,200 for expenses, and may be removed by the Governor, for cause, after a hearing in his defense.

Prison Commission, consisting of three members, whose terms are four years. It is their duty to

visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors. (*Id.*)

These include jails and penitentiaries (but not state prisons). The Commission is also empowered to devise a system for the proper employment of prisoners, and to provide for the disposition of articles manufactured by them. The president of the Board, only, receives compensation—an annual salary of \$2,500. Any commissioner may be removed by the Governor, for cause, after hearing.

Railroad Commission, consisting of three members, whose terms are five years. It has general supervision of all railroads of the State, with power to inquire into their construction and operation, to investigate accidents, to inspect books and business affairs of railroad companies and to require from each company an annual report of its transactions. An incident of its work is the gradual removal of grade crossings by changing the level of highway or railroad, the expense of which is borne jointly by the State, the company and the locality. Each Commissioner receives an annual salary of \$8,000.

Tax Commission, consisting of three members, whose terms are three years. It is their duty to visit each county once in two years, to inquire into the assessment of property, and ascertain such facts as to values as will aid the Board for the Equalization of Assessments, of which the Commissioners are *ex-officio* members, in the discharge of its duties. Each Commissioner receives an annual salary of \$2,500 and \$500 for expenses.

Quarantine Commission, consisting of three members, whose terms are three years. In connection with the *Health Officer of the Port of New York* (appointed by the Governor for four years with an annual salary of

\$12,500) the Commission has control of the quarantine establishment of the port of New York, and may inspect incoming vessels, detain persons suffering with contagious diseases, and make and enforce regulations to prevent the introduction of diseases into that port. Each Commissioner receives an annual salary of \$2,500.

Civil Service Commission, consisting of three members, who serve until their successors are appointed. It is the duty of the Commissioners to assist the Governor in carrying out the provisions of the Constitution requiring that:

Appointments and promotions in the civil service of the State, and all the civil divisions thereof, including cities and villages, shall be made according to merit and fitness to be ascertained, so far as practicable, by examinations, which, so far as practicable, shall be competitive ; provided, however, that honorably discharged soldiers and sailors from the army and navy of the United States in the late Civil War, who are citizens and residents of this State, shall be entitled to preference in appointment and promotion, without regard to their standing on any list from which such appointment or promotion may be made. Laws shall be made to provide for the enforcement of this section. (Art. V., Sec. 9.)

In the "Civil Service" are included all state employees other than those in the militia. The powers and duties of the Commission are similar to those of the United States Civil Service Commission (see Book I., page 130), with the additional duty of supervising local civil service boards and compelling them to perform their duties. Each Commissioner receives an annual salary of \$2,000 and expenses, and the *Chief Examiner* appointed by the Commission, an annual salary of \$3,600.

4. EX-OFFICIO BOARDS AND COMMISSIONS.

Commissioners of the Land Office, consisting of the Lieutenant-Governor, Speaker of the Assembly, Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor. They have power to make grants of waste and unappropriated state lands, other than those included in state forests, or "the Forest Preserve," as they are called.

Commissioners of the Canal Fund, consisting of the Lieutenant-Governor, Secretary of State, Comptroller, State Treasurer and Attorney-General. They are charged with the management of the Canal Fund—direct payments for repairs and borrow money for canal purposes when authorized by law.

Canal Board, consisting of the Commissioners of the Canal Fund with the State Engineer and Surveyor and Superintendent of Public Works. It has general supervision of canals, the examination of the plans of the State Engineer for their improvement, the sale and abandonment of canal lands, and the investigation of charges against canal officials.

Board of State Canvassers, consisting of the Secretary of State, Comptroller, Attorney-General, Treasurer, and State Engineer and Surveyor, and in case there is not a majority at a meeting, of the Mayor and Recorder of the City of Albany. Its duties will be considered under the subject of Election (see page 145).

Board of Equalization of Assessments, consisting of the Tax Commissioners and the Commissioners of the Land Office. Its duties will be considered under the subject of Taxation (see page 125).

CHAPTER IV.

THE JUDICIAL BRANCH.

THE STATE JUDICIARY.

The Courts.—The judicial power of the State is exercised by the following courts: 1. The Court of Impeachment. 2. The Court of Appeals. 3. The Supreme Court. 4. County Courts. 5. Surrogates' Courts. 6. Justices' Courts and Inferior Local Courts. 7. Coroners' Courts; and 8. The Court of Claims.* In all these Courts except the Court of Claims and some minor city courts the judicial officers are elected by the people. In this respect the judiciary of the State differs from that of the United States, for the latter are all appointed. Another difference is that the state judges hold office for a fixed number of years, while the federal judges' terms are "during good behavior" (i.e., for life). The principle of making the judiciary independent of political influence is, however, recognized by granting them terms of office much longer than other state officials.

General Provisions.—In order to preserve the efficiency of the courts the Constitution provides:

COMPENSATION : LIMIT OF SERVICE.—The Judges and Justices hereinbefore mentioned shall receive for their services a compensation established by law, which shall not be increased or diminished during their official terms, . . . No person shall hold the office of Judge or Justice of any court longer than until and

* The Court of Appeals, Supreme Court, County Courts and Surrogates' Courts are termed "Courts of Record"; Justices' Courts and other minor Courts are "Courts not of Record."

including the last day of December next after he shall be seventy years of age. (Art. VI., Sec. 12.)

QUALIFICATIONS. FEES. LIMITATIONS.—No judicial officer, except Justices of the Peace, shall receive to his own use any fees or perquisites of office ; nor shall any Judge of the Court of Appeals, or Justice of the Supreme Court, or any County Judge or Surrogate hereafter elected in a county having a population exceeding one hundred and twenty thousand, practice as an attorney or counselor in any court of record in this State, . . . No one shall be eligible to the office of Judge of the Court of Appeals, Justice of the Supreme Court, or, except in the County of Hamilton, to the office of County Judge or Surrogate, who is not an attorney and counselor of this State. (Art. IV., Sec. 20.)

JUDGES NOT TO HOLD OTHER OFFICE.—The Judges of the Court of Appeals and the Justices of the Supreme Court shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the Legislature or the people, shall be void. (Art. IV., Sec. 10.)

WHEN JUDGES NOT TO SIT.—No Judge or Justice shall sit in the Appellate Division or in the Court of Appeals in review of a decision made by him or by any court of which he was at the time a sitting member. (Art. IV., Sec. 3.)

REMOVAL OF JUDGES.—Judges of the Court of Appeals and Justices of the Supreme Court may be removed by concurrent resolution of both houses of the Legislature, if two-thirds of all the members elected to each house concur therein. All other judicial officers, except Justices of the Peace and judges or justices of inferior courts not of record, may be removed by the Senate, on the recommendation of the Governor, if two-thirds of all the members elected to the Senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statement of the cause alleged, and shall have an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal. (Art. VI., Sec. 11.)

1. THE COURT OF IMPEACHMENT.

Impeachment.—The impeachment of public officers is provided for by the Constitution as follows:

The Assembly shall have the power of impeachment, by a vote of a majority of all the members elected. *The Court for the Trial of Impeachments* shall be composed of the *President of the Senate, the Senators or the major part of them, and the Judges of the Court of Appeals, or the major part of them.* On the trial of an impeachment against the Governor or Lieutenant-Governor, the Lieutenant-Governor shall not act as a member of the court. . . . Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust or profit under this State; but the party impeached shall be liable to indictment and punishment according to law. (Art. VI., Sec. 13.)

The method of procedure and the trial are similar to that pursued in the Federal Government (see Book I., page 156); but the State Constitution does not state, as does the Federal Constitution, the officers who may be impeached, nor does it limit the grounds for impeachment.

2. THE COURT OF APPEALS.

Organization.—This court is the highest court in the State for the decision of legal questions, or as it is called, “the court of last resort,” because its decisions are final, except where the Federal Constitution, laws or treaties are involved.

It shall consist of the Chief Judge and the Associate Judges

now in office, . . . and their successors, who shall be chosen by the electors of the State. The *official terms* of the Chief Judge and Associate Judges shall be *fourteen years* from and including the first day of January next after their election. Five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have power to appoint and to remove its reporter, clerk and attendants. Whenever and as often as a majority of the Judges of the Court of Appeals shall certify to the Governor that said court is unable, by reason of the accumulation of causes pending therein, to hear and dispose of the same with reasonable speed, the Governor shall designate not more than four Justices of the Supreme Court to serve as Associate Judges of Court of Appeals. The Justices so designated shall be relieved from their duties as Justices of the Supreme Court and shall serve as Associate Judges of the Court of Appeals until the causes undisposed of in said court are reduced to two hundred, when they shall return to the Supreme Court. . . . No more than seven Judges shall sit in any case. (Art. VI., Sec. 7.)

The Chief Judge and the six Associate Judges are elected by the voters of the entire State, and hold office for fourteen years. The Chief Judge receives an annual salary of \$10,500, and each Associate Judge \$10,000, together with \$2,000 for expenses.

FILLING VACANCY IN COURT OF APPEALS.—When a vacancy shall occur otherwise than by expiration of term, in the office of Chief or Associate Judge of the Court of Appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs ; and until the vacancy shall be filled, the Governor, by and with the advice and consent of the Senate, if the Senate shall be in session, or if not in session the Governor may fill such vacancy by appointment. . . . All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled. (Art. VI., Sec. 8.)

3. THE SUPREME COURT.

Name and Importance.—The Supreme Court* is retained from the judicial systems established by former Constitutions (see pages 11, 13, 15), and is the most important institution in New York for the administration of justice, because it holds sessions throughout the State, and because of its extensive jurisdiction, which will be considered later.

Judicial Departments and Districts.—The Constitution provides for purposes of justice that:

The Legislature shall divide the State into four judicial departments. The first department shall consist of the county of New York ; the others shall be bounded by county lines, and be compact and equal in population as nearly as may be. Once every ten years the Legislature may alter the judicial departments, but without increasing the number thereof. (Art. VI., Sec. 2, Par. 1.)

The State is also divided into eight *Judicial Districts*, comprising several counties, to which seventy-six Supreme Court Justices are allotted, as follows :

* The term "Supreme Court" is a survival of the name of the highest law court of the province of New York. However, in state practice it is a misnomer, as most of its decisions of law are not *final*, but are subject to review by the Court of Appeals, which, though now a distinct judicial tribunal, is, in fact, a development of the function of the legislative branch to pass upon decisions of the judiciary. In colonial times this function was exercised by the governor and his council, and under the first constitution, by the chancellor and senate, in the same way that it is exercised to-day by the English House of Lords. But in federal practice the Supreme Court is considered the highest court of the State, since its judgments are the ones reviewed upon appeals to the Supreme Court of the United States.

Departments.	Districts.	Number of Justices.	Counties Comprising.
First.	First.	22	New York.
Second.	Second.	12	{ Dutchess, Kings, Nassau, Orange, Putnam, Queens, Richmond, Rockland, Suffolk and Westchester.
Third.	Third.	6	{ Albany, Columbia, Greene, Rensselaer, Schoharie, Sullivan and Ulster.
	Fourth.	6	{ Clinton, Essex, Franklin, Fulton, Hamilton, Mont- gomery, St. Lawrence, Saratoga, Schenectady, Warren and Washing- ton.
	Sixth.	6	{ Broome, Chemung, Che- nango, Cortland, Dela- ware, Madison, Otsego, Schuyler, Tioga and Tompkins.
Fourth.	Fifth.	7	{ Herkimer, Jefferson, Lewis, Oneida, Onon- daga and Oswego.
	Seventh.	7	{ Cayuga, Livingston, Mon- roe, Ontario, Seneca, Steuben, Wayne and Yates.
	Eighth.	10	{ Allegany, Cattaraugus, Chautauqua, Niagara, Genesee, Erie, Orleans and Wyoming.

But the Legislature may alter the judicial districts once after every enumeration (Art. VI., Sec. 1).

Terms and Salaries of Justices.—The justices of each district are elected by the voters in the district.

The *official terms* of the Justices of the Supreme Court shall be *fourteen years* from and including the first day of January next after the election. . . . (Art. VI., Sec. 4.)

Vacancies are filled in the same manner as in the office of Judge of the Court of Appeals.

The salary of a Justice of the Supreme Court is \$7,200, including \$1,200 for expenses, except in the First District, where a justice receives \$17,500, and in Kings County, where the salary is \$13,200.

Divisions of Supreme Court.—The Court is divided into two divisions, one with original jurisdiction and the other with appellate. (See Book I., page 162.) In each county there are held at *stated intervals* “trial” terms of the original branch, at which civil and criminal cases are tried before a Justice of the Supreme Court and a jury, and “special” terms at which are held trials of cases before a Justice without a jury.

Appellate Division.—There shall be an Appellate Division of the Supreme Court, consisting of seven Justices of the first department, and of five Justices in each of the other departments. In each department four shall constitute a quorum, and the concurrence of three shall be necessary to a decision. No more than five Justices shall sit in any case.

From all the Justices elected to the Supreme Court the Governor shall designate those who shall constitute the Appellate Division in each department ; and he shall designate the *Presiding Justice* thereof, *who shall act as such during his term of office, and shall be a resident of the department. The other Justices* shall be designated for *terms of five years, or the unex-*

pired portions of their respective terms of office, if less than five years. . . . A majority of the Justices designated to sit in the Appellate Division in each department shall be residents of the department. . . .

The Justices of the Appellate Division in each department shall have power to fix the times and places for holding Special and Trial Terms [in the several counties] therein, and to assign the Justices in the departments to hold such terms ; or to make rules therefor. (Art. VI., Sec. 2.)

Clerks of Courts.—Clerks of the several counties shall be Clerks of the Supreme Court, with such powers and duties as shall be prescribed by law. The Justices of the Appellate Division in each department shall have power to appoint and to remove a clerk, who shall keep his office at a place to be designated by said Justices. The Clerk of the Court of Appeals shall keep his office at the seat of government [the city of Albany]. The Clerk of the Court of Appeals and the Clerks of the Appellate Division shall receive compensation to be established by law and paid out of the public treasury. (Art. VI., Sec. 19.)

4. COUNTY COURTS.

Constitutional Provision.—County Courts are among the oldest judicial institutions of England and America, and they are thus retained by the Constitution:

The existing County Courts are continued, and the Judges thereof now in office shall hold their offices until the expiration of their respective terms. In the county of Kings there shall be two County Judges. . . . The successors of the several County Judges shall be chosen by the electors of the counties for the *term of six years*. . . . Every County Judge shall perform such duties as may be required by law. His salary shall be established by law, payable out of the county treasury. A County Judge of any county may hold County courts in any other county when requested by the Judge of such other county. (Art. VI., Sec. 14.)

In counties having less than forty thousand inhabitants, the County Judge also acts as Surrogate.

The County Judge ; New York County Courts.—The County Judge receives a salary fixed by the legislature. In New York County there is no County Court, but its place is taken by two courts—a *Court of General Sessions*, over the divisions of which preside the Recorder, the City Judge and three Justices of Sessions, who are elected by the voters of the entire county for terms of fourteen years each, receiving a salary of \$12,000 a year; and a *City Court*, with seven judges, who are elected for ten years with annual salaries of \$10,000.

5. SURROGATES' COURTS.

Constitutional Provision.—The Constitution provides:

The existing Surrogates' Courts are continued, and the Surrogates now in office shall hold their offices until the expiration of their terms. Their successors shall be chosen by the electors of their respective counties, and their *terms of office shall be six years*, except in the county of New York, where they shall continue to be fourteen years. . . . In counties having a population exceeding forty thousand, wherein there is no separate Surrogate, the Legislature may provide for the election of a separate officer to be surrogate, whose term of office shall be six years. When the Surrogate shall be elected as a separate officer his salary shall be established by law, payable out of the county treasury. . . . For the relief of the Surrogates' Courts the Legislature may confer upon the Supreme Court in any county having a population exceeding four hundred thousand the powers and jurisdiction of Surrogates, with authority to try issues of fact by jury in probate cases. (Art. VI., Sec. 15.)

Vacancies in the offices of County Judge and Surrogate are filled in the same manner as in the office of Judge of the Court of Appeals.

Assistants to County Judges and Surrogates.—The Legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of County Judge and of Surrogate, in cases of their inability or of a vacancy, and in such other cases as may be provided by law, and to exercise such other powers in special cases as are or may be provided by law. (Art. VI., Sec. 16.)

6. JUSTICES OF THE PEACE AND INFERIOR LOCAL COURTS.

Constitutional Provisions.—The constitutional provisions which apply to courts of this class are:

The electors of the several towns shall, at their annual town meetings or at such other time and in such manner as the Legislature may direct, elect Justices of the Peace, whose *term of office shall be four years*. . . . Justices of the Peace and District Court Justices may be elected in the different cities of this State in such manner, and with such powers, and for such terms, respectively, as are or shall be prescribed by law. . . . (Art VI., Sec. 17.)

Inferior local courts of civil and criminal jurisdiction may be established by the Legislature, but no inferior local court hereafter created shall be a court of record. . . . (Art. VI., Sec. 18.)

Statutory Provisions.—In accordance with these sections the Legislature has enacted that there shall be elected in each town four Justices of the Peace, each of whom shall hold a separate court in the town and shall receive for his services fees fixed by law. In the case of district, police and other inferior courts, the judges receive salaries established by the Legislature.

Inferior Courts of Greater New York.—The charter of Greater New York provides for two inferior courts—a *Court of Special Sessions* and a *Municipal Court*. There

are ten judges of the former court, who are appointed by the Mayor and hold office for ten years. Five of these receive salaries of \$9,000 each; and the other five, \$6,000 each. In addition to the judges there are twenty-seven *City Magistrates*, each of whom acts as a police justice. Twelve of these magistrates are appointed by the Mayor for ten years, and fifteen are elected by the people, holding office for six years. These magistrates receive annual salaries of from \$5,000 to \$7,000 each. The *Municipal Court* is composed of twenty-three justices, elected by the voters in as many districts, into which the city is divided. The term of office of a justice is ten years, and he receives an annual salary of from \$5,000 to \$6,000, according to his district. Each justice presides over a session of the court held in the district by which he was elected.

7. CORONERS' COURTS.

Coroners.—It is provided by statute that in each county there shall be elected by all the voters of the county not more than four Coroners, who shall serve for three years and receive for their services a salary or fees fixed by law. By custom a physician is usually chosen to fill the office.

8. THE COURT OF CLAIMS.

Organization.—The Court of Claims is composed of three *Judges of Claims*, appointed by the Governor, who hold office for six years. They receive annual salaries of \$5,000 each. The court holds four sessions each year.

2. JURISDICTION OF THE COURTS.

1. COURTS OF ORIGINAL JURISDICTION.

The Supreme Court.—This court has the most extensive jurisdiction of any in the State, for it is provided by the Constitution that:

The Supreme Court is continued with general jurisdiction in law and equity. . . . (Art. VI., Sec. 1, Cl. 1.)

Circuit Courts and Courts of Oyer and Terminer [see page 12] are abolished. . . . All their jurisdiction shall . . . be vested in the Supreme Court. . . . Any justice of the Supreme Court, except as otherwise provided in this article, may hold court in any county. (Art. VI., Sec. 6.)

The Supreme Court has jurisdiction in *all* cases except those relating to claims against the State and those of which the federal courts have exclusive jurisdiction. (See Book I., page 162.) But it is not usual to bring actions in the Supreme Court for sums of money only, unless the amount involved is fifty dollars or over. Such actions are begun in justice or other inferior courts.

Extent of Jurisdiction.—At a *trial term* a justice with a jury may try actions between private individuals, or a person who has been indicted by the grand jury of the county for a serious crime. But a jury trial may be waived by the consent of the parties to a *civil* action.

Other cases are tried before the justice without a jury at a session of the court called a *special term*. Numerous other legal proceedings may be brought before a justice of the Supreme Court without a jury, and he has power to issue a writ of *habeas corpus*. (See Book I., page 22); an order, called a *Mandamus*, to compel a

public officer to do his duty, which he has refused to do; and also an order, called an *Injunction*, restraining a person from doing some illegal or injurious act.

County Courts.—The County Court in each county has original jurisdiction of all criminal actions, in which the crimes were committed in the county and in which the death penalty cannot be imposed (except in Kings County, where the County Court has that jurisdiction also.) Its jurisdiction in civil cases is provided for by the Constitution as follows:

County Courts shall have . . . original jurisdiction in actions for the recovery of money only, where the defendants reside in the county, and in which the complaint demands judgment for a sum not exceeding two thousand dollars. The Legislature may hereafter enlarge or restrict the jurisdiction of the County Courts, provided, however, that their jurisdiction shall not be so extended as to authorize an action therein for the recovery of money only, in which the sum demanded exceeds two thousand dollars, or in which any person not a resident of the county is a defendant.

Courts of Sessions [see page 12], except in the county of New York, are abolished . . . All the jurisdiction of the Court of Sessions in each county, except the county of New York, shall be vested in the County Court thereof. . . . (Art. VI., Sec. 14.)

Justices of the Peace.—A justice of the peace has a limited jurisdiction in both criminal and civil actions. The former is confined to minor crimes committed in the town, and the civil jurisdiction to cases in which less than \$200 is involved and the parties to the action reside within certain geographical limits fixed by law. When either party demands it, the justice must summon a jury of six men to decide the facts in the case. The court of

a justice of the peace, when engaged in the trial of a criminal action, is termed a *Court of Special Sessions*. A Justice of the Peace has power to issue a warrant for the arrest of a person charged with crime, and after an examination into the facts hold him in custody to await the action of the grand jury.

Local Courts of New York County and City.—New York County has, as has been said, a Court of General Sessions and a City Court, which take the place of a county court. The former has much the same criminal jurisdiction as a county court, but it may also try cases in which the death penalty may be imposed. The City Court possesses civil jurisdiction similar to county courts. The Court of Special Sessions, the City Magistrates and the Municipal Court have much the same jurisdiction as justices of the peace; the first two in criminal cases, the last in civil; but the limit of the amount involved is extended from two hundred to five hundred dollars. These courts have also jurisdiction of actions for violation of city ordinances.

Other Inferior Courts.—Local courts in other cities have generally jurisdiction similar to that of the courts last described, but one court in the smaller cities exercises both criminal and civil jurisdiction. The Police Justice of a village has a limited jurisdiction of petty offenses against the state laws and violation of the village ordinances.

Surrogates' Courts.—The Surrogate Court in each county has jurisdiction of matters relating to the estates of persons who die leaving property in the county, such as the proof of wills, the appointment of administrators

and distribution of the property of persons who die without leaving wills, and the appointment of guardians of minors and of their property. The Supreme Court, however, may try such questions as the meaning or validity of a will.

Coroners' Courts.—A Coroner holds a court wherever a person dies by his own hand or under circumstances which point to some other person being criminally responsible for the death. It is his duty to investigate as to the cause, and for this purpose he may compel the attendance of witnesses and examine them. If he be convinced that a crime has been committed, he may order the suspected person to be arrested, to await the action of the grand jury of the county. In counties which contain a city of the first class (see page 94) the Coroner must summon a jury of not less than nine nor more than fifteen persons to determine as to the cause of death. Such method of investigation with a jury is termed an *inquest*.

The Court of Claims.—The State, since it possesses the sovereignty, cannot be sued without its permission by any private person. The Legislature has provided, however, that a person having a claim against the State may present it, under certain conditions, to the Court of Claims, which takes the evidence and decides as to its validity. In case the claim is decided to be good, the Legislature appropriates the money to pay it.

2. COURTS OF APPELLATE JURISDICTION.

Appeals and Appellate Courts.—A person not satisfied with the decision of any court of original jurisdiction,

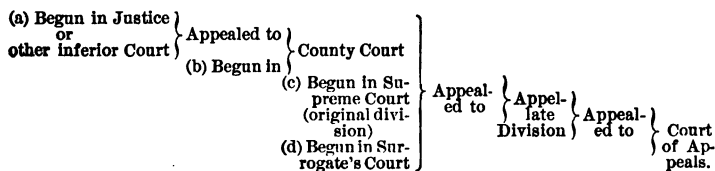
excepting in the case of a Coroner's Court, which is only preliminary to a trial, has the right to appeal from the decision to a higher court; but all appeals must be made within a time fixed by law. There are three courts of appellate jurisdiction—a County Court, an Appellate Division of the Supreme Court and the Court of Appeals.

County Courts.—A County Court has appellate jurisdiction of cases tried before a justice of the peace of any town in the county, and generally of cases tried by the inferior local courts in the county.

The Appellate Division.—To this branch of the Supreme Court appeals may be taken from decisions rendered in the judicial department in which it sits, by the courts held by the trial justices of the Supreme Court, by County Courts and by Surrogates. In certain cases the decisions of the Appellate Division are final.

The Court of Appeals.—The Court of Appeals is limited to the review of *decisions of law* in cases which have been decided by the Appellate Division of the Supreme Court, except that in cases where the judgment is death an appeal can be taken from the trial court directly to the Court of Appeals; *in which latter cases, only, it has power to review decisions of facts.*

Progress of Cases.—From the foregoing observations it will be seen that the progress of ordinary cases through the courts is as follows:



3. JUDICIAL PROCEDURE.

3. A CRIMINAL ACTION.

Arrest; Commitment; Bail.—When a person is suspected of having committed a crime, he is arrested by a sheriff, constable or police officer and taken before a magistrate. If the latter has jurisdiction of the crime he may try the case ; but if he has not jurisdiction, or if the crime is “capital or otherwise infamous,” the judge takes evidence as to the prisoner’s connection with the crime. If the evidence points to him as the guilty party he is “committed to await the action of the grand jury,” that is, he is delivered to the sheriff of the county where the crime occurred, to be imprisoned until the grand jury is in session.* When the crime is not murder or some other heinous offense, the *committing magistrate* may allow the prisoner to be released upon bail.

Proceedings before Grand Jury.—At a meeting of the grand jury, which is held at the same time as a trial term of the Supreme Court, the District Attorney presents to it, in secret session, evidence to establish the guilt of the prisoner. But neither the accused nor any person in his behalf is sworn or allowed to appear before the grand jury.

Arraignment and Plea.—If the prisoner is not indicted by the grand jury, he is discharged ; but if an indictment is “found,” the accused is “arraigned”—that is, brought into court and the indictment read to him—and he is asked if he is guilty ; to this he must “enter a plea,” which is an answer “Guilty” or “Not guilty” to each “count,” or charge, against him, in the indictment. If the plea is “Guilty,” the judge sentences the prisoner, that is, orders what punishment he shall receive. If the plea is “Not guilty,” he is entitled to be tried by a jury. A

* A *Grand Jury* in New York State consists of *not less than sixteen nor more than twenty-three* selected from twenty-four male residents of the county (in New York county the number is thirty-six) who have been drawn by lot by the County Clerk in the presence of the County Judge and Sheriff from a box in which have been placed slips of paper containing the names of three hundred taxpayers, between the ages of twenty-one and seventy years, furnished annually by the board of supervisors.

prisoner indicted for murder, although he pleads guilty, cannot be sentenced without a jury trial.

Accused's Right of Counsel.—Throughout the proceedings of the hearing before the committing magistrate, the arraignment and the trial (but not before the grand jury) the prisoner is entitled to have the advice of an attorney; and upon the arraignment, in case he cannot employ one himself, the judge assigns one of the members of the bar of the county to advise him and to take charge of his defense on the trial.

Drawing the Jury.—The trial of an accused person who has plead "Not guilty" is before the judge and a *petit jury*. For every trial term of the Supreme and County Court, the County Clerk draws by lot the names of thirty-six men from lists of taxpayers, which have been prepared by the supervisors, clerks and assessors of the different towns in the county. This is called the "panel," and the men who are summoned as jurors are said to be "impanelled." When a case is to be tried, the County Clerk draws from a box in which the thirty-six names have been placed twelve of them, who form the *petit jury*. A party has a right to object to one or more of those drawn, and in that case the clerk continues to draw until the number is complete.

Parties; Trial.—The charges in an indictment are made against the accused person in the name of "The People of the State of New York." Their side of the case is called the *prosecution*, and that of the accused is the *defense*. After a jury has been drawn the District Attorney of the county addresses the court, stating the nature of the crime committed and the reasons for believing the prisoner is guilty. The witnesses for the prosecution, who have been *subpœnaed* (received an order of the court to be present and testify on the trial), are sworn and examined by the District Attorney and then cross-examined by the attorney for the defense. After all the witnesses "for the people" have given testimony, the attorney for the accused addresses the court, and the witnesses who have been subpœnaed for the defense are examined by him and cross-examined by the District Attorney. When the evidence is all taken, the attorney for the prisoner addresses the jury, pointing out the facts sworn to which are favorable to the accused. He is followed by the Dis-

trict Attorney, who shows how the evidence establishes the prisoner's guilt.

Judge's Charge.—The judge, who has during the trial of the case decided the questions of law which have arisen, then *makes a charge* to the jury—that is, he states to them the laws which apply to such cases, and in order to show how they apply he may discuss portions of the evidence—but it is his duty not to influence the jurors as to what testimony is or is not true; for the jury alone are to judge of the facts.

Verdict.—The jury, after the charge, retire to a room and secretly discuss the evidence upon both sides of the case and decide what are the facts. All twelve jurors must come to the same opinion as to the guilt of the accused. They are then ready to give their *verdict* (or decision), which is done in the court room by one of their number whom they have selected as *foreman*. He states that the jury has agreed on a verdict, and that it is "Guilty" or "Not guilty." In case the jurors cannot all agree upon a verdict, they are discharged and the accused must be tried again before another jury, and so on until his innocence or guilt is decided.

Sentence.—If the verdict is "Not guilty," the prisoner is at once set at liberty. If, however, he is found "Guilty," the judge, generally after a day or two, pronounces *sentence* upon the prisoner, that is, the latter is brought before him and he directs what punishment in accordance with the laws the prisoner shall receive for having committed the crime. In some cases, on account of the youth of the condemned or for some other good reason, he may *suspend sentence*, that is, allow the prisoner to go free, though liable in case of bad behavior to be arrested again and sentenced.

2. A CIVIL ACTION.

Nature of Action; Parties.—When a person is unable to settle differences with another person involving questions of right, such as contracts, titles to property, etc., he may bring the matter before a court to decide and to compel compliance with the decision. Such a submission of questions to a court is

called a *civil action*. The person commencing the action is termed the *plaintiff*, and the person against whom it is commenced the *defendant*.

How Action is Commenced.—To commence an action or suit in the Supreme Court the plaintiff causes a *summons* and *complaint* to be *served* upon the defendant, which is done by handing to the defendant (generally by the Sheriff or one of his deputies) a summons and a copy of the complaint.

A *Summons* is an order of the court, which informs the defendant that if he does not "appear or answer" the complaint within twenty days, the plaintiff will enter a judgment against him for what the complaint demands. A summons also states the county where the plaintiff desires the trial, which is termed the *place of venue*.

A *Complaint* is a written statement of the facts in the case and what demands the plaintiff requests the court to compel the defendant to comply with.

Answer.—If the defendant does not answer the complaint, the plaintiff, by proving his case to the court, may have a decision in his favor. If, however, the defendant serves on the plaintiff's attorney an *answer*, the questions, or *issues* as they are called, must be decided by a trial before a petit jury, or if it is an equity case before the justice alone. The complaint and answer are called the *pleadings*.

An *Answer* is a statement to the court denying part or all of the facts stated in the complaint with a demand for judgment accordingly. An answer may also set up a claim of the defendant against the plaintiff and ask to have it off-set against the claim made in the complaint. Such a demand in an answer is called a *counter-claim*.

Trial; Verdict.—The proceedings upon the trial of a civil action are similar to those in a criminal action, the plaintiff taking the place of the prosecution. The verdict of the jury determines the right of each party and, in case a sum of money is due from one to the other, the amount to be paid.

Judgment; Execution.—After a verdict is rendered the successful party, upon an order of the court, *enters judgment* against the defeated party, that is, he delivers to the County Clerk a paper which contains the decision of the court, which the

clerk files in his office and enters a record of it on his books. When the judgment is entered, an order, known as an *execution*, may be issued to the Sheriff directing him to compel the defeated party to comply with the judgment.

Proceedings on an Appeal.—Whenever a case is appealed from a trial court, the person making the appeal, called the *appellant*, prepares a *case*, that is, he prints the pleading and all the proceedings had before the trial court, including the evidence and his *exceptions*, or objections to decisions of that court. This case is presented to the appellate court, and upon the questions thus raised the appellant argues for a reversal of the decision ; and the other party, called the *respondent*, argues to sustain the decision. After hearing the arguments and reading the case, the appellate court either affirms the decision of the lower court or reverses it and sends the case back to it for a new trial.

CHAPTER V.

COUNTIES AND TOWNS.

Territorial Divisions of the State.—A glance at the map of New York State shows that it is cut up into sixty-one sections, in much the same way as the nation is divided into States. These sections, irregular in shape and size, we call *counties*. Examine now a county map and you will see that it too is made up of subdivisions, which are termed *towns*. The State is thus divided into counties, and the county into towns, because there are certain functions of government, such as the building of roads and bridges, the care of the poor, the support of schools and the prevention and the punishment of crimes, which can be more conveniently and better exercised by the people of a section or their representatives than by

the state authorities, who have no direct interest in the locality or knowledge of its needs.

Local Government.—Both the county and town governments possess executive, legislative and judicial functions, and each is in a measure a small republic, the powers of which are granted by the constitution and statutes of the State; for the people of the State, and not of a county or town, possess the sovereignty.

The Clan, Mark and Tun.—The town government is one of the oldest political institutions of which we know. In principle it is a pure democracy (see Book I., page 13) in which all the inhabitants assemble at the town meeting to discuss and decide matters of common interest and to choose officers to execute their will. The town and town meeting as they are found in America are the direct descendants of the form of government which existed among the Angles and Saxons long before they invaded Britain. These people lived in small communities, each of which was the home of a *clan*, or group of families related to each other by ties of kinship. The land which a community occupied was called a *mark*. Later the settlement was for the purpose of defense surrounded by a hedge or palisade termed a *tun*, and this name was often used instead of “mark” to describe the village and the lands about it.

The Tun-moot.—Each community was independent, and at the *tun-moot* (town meeting), in which every villager had a voice and vote, laws were made, disputes settled and a headman, or “keeper,” of the town elected. This system of government the Saxons carried with them to Britain, and the towns which sprang up there elected

their *reeves* (keepers) and *tithingmen* (constables) as they did in Germany.

The Parish and Manor.—The conversion of Saxon Britain to Christianity imposed a new public burden upon the communities. Churches had to be built and supported. The necessary money was furnished by the community, whose members formed the church congregation. In this relation to the church the community was termed a *parish*, and usually covered the same area as a town. But its *vestry meeting* and parish officers were separate and distinct from the town meeting and town officers. The *Feudal System*, which the Norman Conquest introduced into England, was based upon the principle that the king, and not the people, possessed the sovereignty, and was directly opposed to the Saxon democracy. Under it the town became the *manor* of a lord, and the people in the *court-leet*, as the public assembly was called, had but small share in its government. Thus, after the Conquest, the same territory had three distinct characters—(1) in its original sense it was a *town*, (2) in its relation to the church it was a *parish*, and (3) under the feudal system it was a *manor*.

Parish and Manorial Officers.—The manor and parish grew up side by side, though the vestry meeting gradually usurped the powers of the *court-leet* of the manor. The officers of the parish were the *constable*, the *beadle*, the *parish clerk*, the *vestry clerk*, the *waywardens* (highway commissioners) and *church wardens* who called vestry meetings, assessed the church rates and acted as overseers of the poor. The *haywards* (fence viewers) and the *collector* of taxes were manorial officers.

The Tribe, Hundred and Shire.—The Saxons did not invade Britain as independent clans. They came as *tribes*, which were confederacies of clans of the same kindred and language, with elected over-chiefs at their head. Intermediate between the clans and the tribe was the *hundred*. It is supposed to have been a military division of a tribe consisting of ten tithings, a *tithing* being the families under the control of a tithingman. The Saxon tribes which invaded England established several little kingdoms, such as Kent, Essex (the East Saxons), Sussex (the South Saxons), etc. In time these tribal kingdoms were merged into one national kingdom, that of England, and the little kingdoms became one or more *shires*, a word derived from the Germanic name for the land occupied by a tribe.

The Shire-moot.—The two principal officers of the Saxon shire were the *ealdorman* (earl), who was appointed by the king, and the *sheriff*, or *shire-reeve*, who was elected at the *shire-moot*, to which were sent the reeve and four (or ten) “best men” from each town in the shire. While the shire-moot had some legislative powers, its chief function was judicial, as it formed a court to hear appeals from the decisions of the *tun-moot*.

The Norman County and its Officers.—The Norman conquerors changed the name shire to *county*. Under their rule the *ealdorman* disappeared as a county officer, and the shire-moot became the *county court*, the executive officer of which was the sheriff, although he was now appointed by the king and not elected by the people. Furthermore, the county court was held by judges appointed by the crown. The king also selected a certain

number of men in a county to act as *justices of the peace*, who held a court four times a year. Another county officer was the *coroner*, whose duties were to inquire into the causes of sudden deaths, fires and similar occurrences in the county. Thus, the whole county government came under royal control, and the shire-moot representing the people became extinct, although its judicial character was retained in the county government.

New England Communities.—The Puritans were familiar with these institutions when they landed on the coasts of New England. They settled in small communities, each of which managed its own affairs, and the local government was the town meeting of their Saxon ancestors; and as the Saxon tun sent representatives to the shire-moot, so in New England each town was represented in the "General Court" of the colony. It was not until 1643 that the colonial government of Massachusetts established counties. As in England, their purpose was to facilitate the administration of justice; they were judicial districts, and had no representation in the colonial legislature.

The "Town System" of New England.—In New England the town was and still is the basis of local government and the unit in the state government. A New England town received a charter from the General Court, which granted to it the right to choose its own officers and to levy and collect taxes. The town meeting elected *selectmen*, who were empowered to call town meetings, impanel jurors, grant licenses, lay out roads and manage local affairs generally. The New England county government consisted of three *commissioners*, who had

charge of the county buildings, estimated the money needed for county purposes and apportioned the taxes among the towns.

The "County System" of Virginia.—The colonists of Virginia did not live in communities as those of New England, but on large plantations. As they were chiefly of the Established Church of England, they adopted the parish for local government, since it was better suited to their needs than the town. Parish affairs were managed by a vestry of twelve men. The minister, whom the vestry installed, presided over their meetings, which had charge of the poor, levied taxes and performed other functions of local government. For purposes of administration of justice counties were created, as in New England, and the Governor appointed generally eight justices of the peace, who formed the County Court and possessed, besides their judicial functions, certain legislative powers, such as imposing county taxes, laying out highways and granting licenses. The chief executive was the sheriff, who was appointed by the Governor from three candidates named by the County Court. Each county sent two representatives to the *House of Burgesses*, as the lower branch of the colonial legislature was called. It will be seen that there was in the local governments of Virginia no real representation of the people, although when it became a State, election was substituted for appointment; but even then the people did not directly share in the government as in New England.

Local Government in New Netherland.—The early government of New Netherland was almost entirely in the hands of the Governor, but the colonists possessed the

Germanic idea of civil liberty and democratic government; and the example of the "Fatherland" and of their New England neighbors caused them to demand a voice in public affairs, and soon compelled the establishment of towns in which the inhabitants had some voice in the management of their local affairs, and from which they sent representatives to act for them in the general government.

The Town Meeting in New York.—When the English came into possession of New Netherland, they modified their town government to conform to the Dutch system. The town meeting was established, where there were elected a constable and board of eight men who acted for the people. Thus the government of the New York town was at first a representative democracy, while that of New England was a pure democracy.

The County in New York.—In 1683 the province was divided into twelve counties, each of which had its county court, and a sheriff appointed by the Governor; and twenty years later (1703) each town in a county was directed to elect a *supervisor* to represent the town in a county board which was to have charge and oversight of the expenses of the county. The county, while it retained its character of a judicial district, thus became for purposes of local legislation a confederacy of towns very similar to the old Saxon shire, but quite different from the Norman county. With the increase of popular rights during the later colonial period, and after New York became an independent state, members of the state legislature, the sheriff and other county officers were elected by the county as a whole.

The Three Systems of Local Government.—The county was the unit of representation in the state government, just as the town was the unit in the county government. In this it differed from Massachusetts, where the unit of representation in the state was the town (or township), and from Virginia, where the county was the unit in the local as well as the state government. The New York system, in contradistinction to the "Town System" and the "County System," has been termed, for this reason, the "Mixed System," or the "Compromise System," and has been quite generally adopted throughout the Western States.

1. THE TOWN.

1. THE LEGISLATIVE BRANCH.

The Town Meeting.—The legislative branch of the town government is the town meeting (the only remaining democratic assembly), composed of all the voters of the town. This meeting is regularly held once in two years upon some day between the first day of February and the first day of May, or at the same time as a general election, as determined by the board of supervisors of the county in which the town is situated. The presiding officer of this meeting is a justice of the peace, and the town clerk acts as clerk; but in the absence of these officers the meeting may select men to act in their places. If, however, the town meeting is held at the same time as a general election, the regular election officials (see page 141) preside.

Powers of Town Meeting.—This meeting has, among other powers, the right to:

(a) Elect town officers; "for all . . . town officers . . . shall be elected by the electors of such . . . towns . . ." (Art. X., Sec. 2). Every elector of a town is eligible to any town office, except that no county treasurer, school commissioner or school trustee is eligible to the office of supervisor.

(b) Direct the prosecution or defense of law suits in the name of the town.

(c) Raise money for support of town paupers.

(d) Provide for the construction of roads and bridges.

(e) Make proper rules for the destruction of weeds and wild animals, the removal of nuisances and the exercise of the corporate powers of the town.

Any legislative act may be performed at a *special town meeting* called for the purpose by the supervisor and certain other officers, or upon the application of twenty-five resident taxpayers.

Benefit of Town Meeting.—It is a great benefit for every private individual thus to have the right to take part in legislation. It educates him as to his public duties, causes him to realize his responsibilities as a citizen and to appreciate the democratic character of our institutions. Thomas Jefferson said that towns and town meetings "have proved themselves the wisest invention ever devised by the wit of man for the perfect exercise of self-government and for its preservation."

2. THE EXECUTIVE BRANCH.

The Executive Officers.—The executive officers of a town are elected for terms of two years, and are:

A *Supervisor*, who acts in two capacities—first, as the

chief executive officer of the town; and second, as the town's representative in the board of supervisors. When acting in the first capacity, he receives two dollars per diem; when acting in the second, four dollars per diem. He is the chief financial officer of the town, and pays out all moneys except those raised for highways and bridges and the support of the poor. He is a member of the town board (see page 82) and once in three years prepares, with the aid of the town clerk and assessors, a list of persons eligible as jurors.*

A Town Clerk, who receives two dollars per diem when engaged in town business, besides fees for the performance of certain duties. He keeps the records of town meetings and certificates of births, deaths and marriages, and files chattel mortgages and such other papers as are required by law to be filed in his office. He is a member of the town board and assists the supervisor in preparing lists of jurors.

Three Assessors, who receive as compensation two dollars per diem for services rendered. With the town clerk they assist the supervisor in preparing jury lists. Their other duties will be considered in the chapter on Taxation. (See page 124.)

A Collector, who receives as compensation certain fees and a commission upon moneys collected by him. His duties will be considered in the chapter on Taxation. (See page 126.)

* With a few exceptions, every male citizen between the ages of 21 and 70, of good character and intelligence, who is either a freeholder, the husband of a freeholder, or is assessed for personal property of the value of \$250, is eligible for jury duty.

One or two Overseers of the Poor, as determined by the town meeting, who receive as compensation two dollars per diem. It is their duty to care for the town poor and disburse the money raised for that purpose.

One or three Commissioners of Highways, as determined by the town meeting, who receive two dollars per diem. It is their power and duty to keep the roads and bridges in repair, to expend money raised by taxation for highway purposes, to divide the town into road districts and appoint for each a competent person, known as a *path-master*, who shall act as foreman on the highways in that district.

Not more than five Constables, who are paid by fees for services. They are peace officers, and are also charged with the execution of the judgments and other orders of justice courts.

The Town Board.—Besides these regular official duties, the supervisor, town clerk and two or more of the justices of the peace meet as a *Town Board*, which is a board of audit, to pass upon the accounts of the town officers and charges and accounts presented against the town. In some towns three *Auditors*, elected at the town meeting, perform these duties, but the Town Board is the institution which generally prevails throughout the State.

Fence Viewers.—The assessors and commissioners of highways are the *Fence Viewers* in each town. They are empowered to settle questions concerning division fences between adjoining owners, and the killing of sheep by dogs. The Fence Viewers receive fees for their services.

3. THE JUDICIAL BRANCH.

Justices of the Peace.—Four *Justices of the Peace* are elected for terms of four years. As judicial officers they receive fees. They are also members of the town board, and when acting as such receive two dollars per diem. Their judicial powers have already been described. (See page 61.)

2. THE COUNTY.

1. THE LEGISLATIVE BRANCH.

The Board of Supervisors.—The county legislature, called the *Board of Supervisors*, differs from that of the town as it is a representative body. It is composed of one supervisor from each town and city ward in the county; but in case a city has the same boundaries as a county, then the city legislature performs the duties of the Board of Supervisors. The Constitution says:

There shall be in the several counties, except in cities whose boundaries are the same as those of the county, a board of supervisors, to be composed of such members, and elected in such manner, and for such period, as is or may be provided by law. In any such city the duties and powers of a board of supervisors may be devolved upon the common council or board of aldermen thereof. (Art. III., Sec. 26.)

The board meets annually. The members organize by electing one of their number chairman, and by appointing a clerk, who keeps the record of their meetings; and the chairman, to facilitate the business of the board, appoints a number of standing committees, as is done in Congress and the Legislature. The Constitution further provides that:

The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the Legislature may from time to time deem expedient. (Art. III., Sec. 27.)

Powers of the Board.—Boards of Supervisors, therefore, have been empowered by the Legislature to: (1) Have care and custody of county property, such as courthouses, jails, etc.; (2) audit charges against the county; (3) levy taxes for county and town purposes and for the county's portion of state tax; (4) make appropriations; (5) fix salaries of county officers; (6) borrow money on credit of the county, up to amount fixed by law; (7) divide the county into school and assembly districts; (8) make contracts for the county; and (9) make proper laws relative to weeds, animals, fish and game. Besides the foregoing, the Board of Supervisors prepares annually a list of three hundred men to serve as grand jurors for the ensuing year, and the members also act after each general election as a *County Board of Canvassers*. (See page 144.)

2. EXECUTIVE BRANCH.

The Executive Officers of a county are a Sheriff, a County Clerk, a County Treasurer, a District Attorney, and a Superintendent of the Poor.

Sheriffs, clerks of counties, district attorneys, and registers in counties having registers, shall be chosen by the electors of the respective counties, once in every three years and as often as vacancies shall happen, except in the counties of New York and Kings, and in counties whose boundaries are the same as those of a city, where such officers shall be chosen by the electors once in every two or four years as the Legislature shall direct. *Sheriffs shall hold no other office, and be ineligible for the next term after the termination of their offices.* . . . The

Governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defense. (Art. X., Sec. 1.)

The Sheriff is the chief executive officer of the county, just as the shire-reeve was of the Saxon shire; but unlike the executive head of the state or nation, he has no control over the county legislature. He is the peace officer of the county, charged with the preservation of order, the prevention of crime and the apprehension of criminals. To suppress a riot he has authority to call out and compel the assistance of the *posse comitatus* (the power of the county), consisting of all the able-bodied male inhabitants over fifteen years of age. He has custody of persons under arrest and those convicted of crimes, and is charged with executing judicial sentences and orders as well as enforcing the laws of the state and local laws passed by the board of supervisors. He assists the county clerk in the selection of jurors and also attends the courts of record held in the county, compels obedience to their orders and usually serves legal papers in civil suits between private parties. To assist him in the performance of his duties the Sheriff appoints an *Under-Sheriff*, and also a number of *Deputy Sheriffs*. The Sheriff was formerly paid by fees allowed him by statute; but now in many counties he receives a fixed salary, and the fees which he collects belong to the county.

The County Clerk has charge of the public records of the county. Deeds, mortgages, wills and other documents affecting the title to real estate are recorded in his office; while judgments and other papers of like nature,

which are subjects of public reference, are filed with him. The County Clerk is the clerk of the County Court, and of the Supreme Court when it holds a term in the county. He also draws from the proper lists the grand and petit jurors for terms of the court held in the the county; but in the more populous counties this duty is performed by an officer termed the *Commissioner of Jurors*. His compensation was formerly from fees fixed by law; but to-day in many counties the office is a salaried one, and the fees go to the county.

The County Treasurer is the custodian of the moneys collected by taxation in the towns and wards of the county for state and county purposes. He issues licenses for the sale of intoxicants upon payment to him of the fees fixed by law, and also collects charges upon estates of dead persons. He pays out county moneys in accordance with the resolutions of the board of supervisors. The County Treasurer receives from the State and distributes to the towns the school moneys for the county, and money paid into court is placed in his hands and is paid out on a court order. In some instances he receives a percentage from the funds which come into his hands, but generally he is paid a salary.

The District Attorney is the law officer of the State in the county. It is his duty to prosecute persons indicted for crime committed in the county, to present evidence to the grand jury and to act as the adviser of the board of supervisors. In the latter capacity he is a county officer, but in the other two he acts for the State. He is paid a fixed salary by the board of supervisors.

The Superintendent (or Superintendents) of the Poor is

in some counties elected by the voters of the county, and in others appointed by the board of supervisors. He has charge of the poorhouse of the county and control of its inmates. He also expends and accounts for the moneys voted by the board of supervisors for the support of the institution, and renders a report annually to the State Board of Charities, and furnishes to the board of supervisors a statement of the charges against the different towns for the maintenance of their poor. He is paid a salary fixed by the board of supervisors.

3. JUDICIAL BRANCH.

The Judicial Officers of a county are the County Judge and the Surrogate, each of whom are elected for six years, and four Coroners, elected for three years. The duties of these officers have been discussed before. (See pages 60-66.) The salaries of the County Judge and Surrogate are determined by the legislature. The Coroners, because they act in certain cases in place of the sheriff, are executive as well as judicial officers, and receive either a salary fixed by the board of supervisors or fees fixed by statute.

Corporate Character.—As a county and a town are not sovereign, but are created by and derive all their rights from the legislature of the State, they are public corporations, and as such can be sued as other corporations for failure to perform their obligations.

TOWN GOVERNMENT.

	NUMBER.	TERM.	COMPENSA- TION.	PRINCIPAL DUTIES.
Legislative Branch:				
THE TOWN MEETING.....	All voters	....	.....	To elect town officers; raise and appropriate money.
Executive Branch:				
SUPERVISOR	1	2 years	\$2 per diem	To manage finances. (<i>To represent town in County Legislature.</i>)
TOWN CLERK.....	1	" "	" "	To care for and keep town records.
COLLECTOR	1	" "	Percentage	To collect taxes.
ASSESSORS	3	" "	\$2 per diem	To value property for taxation.
COMMISSIONER OF HIGHWAYS	1 or 3	" "	" "	To take charge of roads, bridges, etc. } <i>Fence Viewers.</i>
				To appoint <i>Path-masters.</i>
OVERSEER OF THE POOR	1 or 2	" "	" "	To care for the poor.
CONSTABLES	Not more than 5	" "	Fees	To make arrests, serve papers and execute orders of Justices' Court.
TOWN BOARD.....	.....	....	\$2 per diem	To audit accounts and claims.
Judicial Branch:				
JUSTICES OF THE PEACE.....	4	4 years	Fees	To try minor criminal and civil actions.

COUNTY GOVERNMENT.

	NUMBER.	MODE OF SELECTION	TERM.	COMPENSATION.	PRINCIPAL DUTIES AND POWERS.
Legislative Branch:					
BOARD OF SUPERVISORS.....	1 from each town and ward	Elected	2 years	\$4 per diem	To levy taxes; appropriate money; fix salaries. (<i>County Board of Canvassers.</i>)
Executive Branch:					
SHERIFF.....	1	"	3 years	Fees or salary	To preserve order; enforce laws; execute judicial orders; appoint <i>Under-Sheriff</i> and <i>Deputy Sheriff</i> .
COUNTY CLERK.....	1	"	"	"	To keep the public records; act as clerk of the Supreme and County Courts.
COUNTY TREASURER.....	1	"	"	Salary or percentage	To receive and pay out County moneys; grant liquor licenses and collect fees.
DISTRICT ATTORNEY.....	1	"	"	Salary	To prosecute criminal cases; to advise Board of Supervisors.
SUPERINTENDENT OF THE POOR	1-3	Elected or app. by Sup'ts	"	"	To have charge of Poorhouse and inmates.
Judicial Branch:					
COUNTY JUDGE *	1	Elected	6 years	"	To try criminal and civil actions (when less than \$2,000 involved).
SURROGATE †	1	"	"	"	To settle estates of deceased persons; to have charge of minors and their property.
CORONERS	4	"	3 years	Fees or salary	To investigate causes of sudden death.

* Kings County has two County Judges.

† New York County has two Surrogates with terms of 14 years each.

CHAPTER VI.

CITIES AND VILLAGES.

1. THE CITY.

The Burh or Borough.—We have seen that the Saxon tun was a collection of dwellings grouped together for mutual defense. For commercial reasons several communities often located near each other, and by gradual growth finally united into a single larger community. Usually such a collection of towns gathered about a central hill, crowned with a castle of stone known as a *burh* (burgh), and in time this name was extended and applied to the entire settlement, which was known as *burh* (bury), *burg* or *borough*. In this sense the word is used in many names of places, as Edinburgh in Scotland, Hamburg in Germany, Cherbourg in France, and Burgos in Spain.

Growth and Charter Rights; City.—As the borough grew, it acquired in time the functions of the hundred, and later the attributes of a shire or county, with its judicial powers and early representative legislature. This growth was largely due to the increase of commerce, manufacturing and trade carried on chiefly by freemen, who saw in them the opportunities to amass wealth and better their social condition. The “burghers” soon became a strong political factor, which the crown attached to itself by granting certain immunities from feudal service, special privileges in trade and greater rights of self-government than were possessed by the residents of rural towns and counties. This was done by a written document termed a *charter*, which formed the constitution of the borough.

The Normans introduced into the language of England the word "city," which name was later applied to boroughs containing a cathedral.

Ancient London.—The government of the city of London was the model after which all the others were fashioned, although none obtained so many privileges. Like a county, it was divided into hundreds, which were termed *wards*. Each ward had its own governing body, and these sent representatives to the general court of the city, which was the counterpart of the shire-moot, or county court. Thus, the city closely resembled in its political organization the rural county. But until the fourteenth century the legislative power seemed to have been exercised by a general meeting of the citizens, at which they elected officers, just as if the city was a large town. After that period this power was delegated to the representatives from the wards. The chief executive officer was the *port-reeve* (gate-keeper), afterwards called the *mayor* (French, *maire*), who also presided over the city court. Besides this magistrate there was the sheriff, who had much the same duties as the sheriff of a county. Both of these officers were elected by the citizens.

The Guilds.—The controlling force in the cities was the people engaged in trade and commerce. In order to protect themselves from injury and their property from seizure by the nobles, those engaged in the same occupation banded together into an organization known as a *guild*. There were almost as many of these fraternities as there were trades—a guild of the weavers, of the saddlers, the butchers and many others. The various guilds in time united, and their chief officers, called *aldermen*

(the same Saxon word, ealdormen, from which came "earl"), met together in a *town guild*.

The Common Council.—The superiority of the people engaged in trades, both in number and influence, soon gave them control of the city government. The privilege of taking part in public affairs was confined to their members, and their aldermen came to represent the different wards, while the citizens in general were represented by *councilmen*. The *common council* was comprised of these two classes of representatives, and over its meetings the mayor presided. The aldermen also were assistants to the mayor in the performance of his executive duties, and thus formed an administrative board. This was the system which existed in the English cities at the time of the colonization of America.

The Dutch Cities.—The first American city to obtain local government was New Amsterdam. It found its model in the system which then prevailed in the Dutch cities of Europe, in which public affairs were administered by a board consisting of two or more *burgomasters* (city-masters) and a certain number of *schepens* (similar to the English aldermen) selected by eight or nine men elected at the annual meeting of all the burghers of the city. There was also another officer, termed the *schout* (a contraction of *schouldrecht*, righter of crimes), whose duties were similar to those of a sheriff, and also of a prosecuting officer.

Government of New Amsterdam.—In 1653 New Amsterdam was granted a local government of this sort, but it was republican in form only; for the two burgomasters, five schepens and the schout were appointed by the

director-general of the province, who also controlled their acts by retaining the right to veto them if he saw fit. After several petitions to the home government the burghers finally obtained, in 1658, the right of nominating two sets of burgomasters and schepens, from which the director-general had to select the magistrates for the succeeding year; but in the appointment of the schout his choice was unlimited.

New York City under the English Charter of 1686.—

Upon the surrender of the city to the English in 1664, General Nichols changed the government to the English system by appointing a mayor in place of the two burgomasters, five aldermen in place of the five schepens, and a sheriff instead of the schout. Thus the burghers were deprived of the small share in the government they had already gained. However, in 1686 a charter was granted to the city by Governor Dongan. It divided the city into six wards, each represented in the common council by an alderman and an assistant, who were annually elected, as were seven constables. There were also a mayor, recorder and sheriff, appointed by the governor of the province, while a city treasurer was chosen by the mayor and common council. The mayor, recorder and six aldermen formed a court of common pleas, which held a weekly session. Thus the city government had a single legislative body, with two classes of members; executive officers; and a judicial branch composed of the chief executive, a judge and one class of the legislators, a judicial system which bears a strong resemblance to that of the early state government.

The Charter of 1821.—The charter of 1686 remained

in force until 1821, when all the offices were made elective; and the mayor, in imitation of the chief executives of state and nation, was given a veto power over the common council and more extensive executive powers. This was exactly opposite to the development in England, where the mayor was little by little deprived of his independent character, and became hardly more than the presiding officer of the council. It is this system, more or less modified, that is found in all the cities of New York to-day; the most complex being that of Greater New York, which will be discussed separately.

Organization of Cities.—The Constitution declares:

It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments, and in contracting debt by such municipal corporations. (Art. XII., Sec. 1.)

Charter.—Every city of the State is a municipal corporation created by an act of the Legislature, which is its charter. A *charter* defines the boundaries of the city, divides it into wards, grants to its citizens the right to elect the city officers named in the charter and sets forth the powers and duties of the latter. A city is independent of the town or towns from which it was erected; but no legislative, executive or judicial power can be exercised by the city government unless specifically granted by the charter, which is the constitution or organic law of the city.

Classification of Cities.—All cities are classified according to the latest State enumeration, as from time to time made, as follows: The first class includes all cities having a population of two hundred and fifty thousand, or more; the second class, all

cities having a population of fifty thousand and less than two hundred and fifty thousand ; the third class, all other cities. (Art. XII., Sec. 2.)

State Laws affecting Cities.—Though the city is empowered by its charter to conduct its local affairs, the constitution gives the Legislature the right to pass laws affecting cities. These laws are divided into general and special city laws. *General city laws* are those which relate to all the cities of one or more classes; *special city laws* are those which relate to a single city or to less than all the cities of a class.

Special City Laws.—General city laws can be enacted by the Legislature at its pleasure. But for the purpose of protecting cities from undue interference, the Constitution provides:

After any bill for a special city law, relating to a city, has been passed by both branches of the Legislature, the house in which it originated shall immediately transmit a certified copy thereof to the mayor of such city, and within fifteen days thereafter the mayor shall return such bill to the house from which it was sent, or if the session of the Legislature at which such bill was passed has terminated, to the Governor, with the mayor's certificate thereon, stating whether the city has or has not accepted the same.

In every city of the *first class*, the *mayor*, and in *every other* city, the *mayor* and the *legislative* body thereof concurrently, shall act for the city as to such bill ; but the Legislature may provide for the concurrence of the legislative body in cities of the first class. The Legislature shall provide for a public notice and opportunity for a public hearing concerning any such bill in every city to which it relates, before action thereon. Such a bill, if it relates to more than one city, shall be transmitted to the mayor of each city to which it relates, and shall not be deemed accepted unless accepted as herein provided, by every such city. Whenever any such bill is accepted as herein provided, it shall

be subject as are the other bills, to the action of the Governor. Whenever, during the session at which it was passed, any such bill is returned without the acceptance of the city or cities to which it relates, or within such fifteen days is not returned, it may nevertheless again be passed by both branches of the Legislature, and it shall then be subject as are other bills, to the action of the Governor. (Art. XII., Sec. 2.)

City Elections.—The constitution also provides that in all cities of the first and second classes officers shall be elected in odd numbered years. This is intended to free local elections from the intense partisanship attendant upon national or state elections.

City Governments.—There are hardly any two cities in the State which have the same government. They all possess the three departments, but differ in the system of administering public affairs.

1. LEGISLATIVE BRANCH.

The *Legislative Branch* consists of a Board of Aldermen or a Common Council, usually elected by the wards, but in some instances by the entire city. Their presiding officer is generally in the smaller cities the Mayor, but in the larger ones a President of the Board or of the Council is chosen by the whole body of citizens, and the presiding officer appoints standing committees to facilitate business. The legislative powers of the Board or Council are confined to the boundaries of the city. The most important of these are the levying of taxes for local purposes to the amount allowed by law, the borrowing of money under certain restrictions, the appropriation of the public moneys to city uses, the fixing of salaries of city officers and the enactment of ordinances, or local laws, for the protection

of property and the preservation of public safety, order and good morals. Besides these laws the city legislature may grant franchises and licenses and inspect and regulate certain trades.

2. EXECUTIVE BRANCH.

The *Executive Branch* is composed of a Mayor, one or three Assessors, a City Treasurer (or Chamberlain), a City Clerk, a City Attorney (or Corporation Counsel), and a certain number of Commissioners of Administrative Departments, besides minor officers.

The *Mayor* is elected by the entire city. He is its chief executive, and as such it is his duty to see that the state laws and city ordinances are enforced. For this purpose he may take command of the municipal police and firemen, and, when needful to preserve the public peace, he may compel the assistance of any organization of the state militia located in the city. Many of the other executive officers are appointed by him, and in cities, the administrative departments of which are conducted by boards, he is usually a member of each board *ex-officio*. If the Mayor does not preside over the council, it is his duty to send to that body, at least once a year, a written statement of the condition of affairs of the city, with his recommendations as to needful legislation, and he may at any time in this manner communicate to the council his views upon any subject requiring their action.

We can see from this brief outline that the Mayor's powers are those of the President of the United States or the Governor of the State on a small scale, except that the former does not possess the power to appoint judicial

officers or to pardon criminals. The same checks upon legislation and upon the appointing power exist in the city government as in the federal and state governments. The Mayor has a limited veto of laws passed by the council, and his appointments must be confirmed by that body.

The *Assessor* or *Board of Assessors* is in some cases appointed by the mayor, in others elected by the entire city. Their duties and powers are considered in the chapter on Taxation. (See page 125.)

The *City Treasurer*, or *City Chamberlain* as he is called in some charters, is the financial officer of the city. He is either appointed by the mayor or elected by the entire city. He receives the moneys raised by taxation, loans, and other methods, divides them into funds for the different departments of the government, and pays them out upon *warrants* (or written orders) of the officials empowered to expend them. The Treasurer of the city is its book-keeper, and reports at regular intervals its financial condition to the council. In some cities where there is no office of collector the Treasurer collects the taxes.

The *City Clerk* is usually appointed by the mayor, but in some of the smaller cities, where the office of the City Clerk and City Treasurer are combined, he is elected by the entire city. It is his duty to keep the records of the city and the proceedings of its governing bodies.

The *City Attorney*, or *Corporation Counsel*, is an appointive officer, who prosecutes and defends law actions brought for or against the city, and acts as legal adviser to the legislative and executive branches of the government.

The *Administrative Departments* are each conducted

by a single commissioner or board of commissioners, the tendency being to have single-headed departments, especially in the larger cities, where these offices are salaried. In some cases the more important administrative boards are elected by the people, and this is generally true of the *Commissioners of Education*; but the majority of the boards are appointed by the mayor. The departments found in nearly every city may be divided into two classes—those created by the general state laws and those created by the city charter. The first class includes a *Health Board* and a municipal *Civil Service Commission*. The second class comprises *Education*, *Public Works*, *Police and Fire* (in some cases under separate boards), *Waterworks*, and *Charities*. The functions of these departments may be generally gathered from their names; but as they are not exactly alike in any two cities, the workings of these departments can only be understood by a study of the charter in each case.

3. JUDICIAL BRANCH.

The *Judicial Branch* consists of a judge or judges elected by the entire city. The municipal courts form a branch of the state judiciary and have been already considered. (See pages 61, 65.)

Terms of City Officers.—The terms of office of the legislative and executive officers of cities of the first and second classes are two years, and the same is being generally adopted by cities of the third class. It is also usual for appointive officers to have the same term; but in some cities the commissioners hold office for three, four or five

years. The term of the judicial officers of the city is usually six years or longer.

2. THE CITY OF GREATER NEW YORK.

Its Organization.—We have seen that a city was the separation of a portion of some larger local division, such as a town or county, in order that it might meet the needs of its more densely populated area, but this is not true of the metropolis known as Greater New York, which was granted a charter by the Legislature in 1897. It is a union of several cities and villages into one immense municipality, which includes within its boundaries four counties.*

Counties in the City.—It should be first noted that these counties remain distinct from the city; but as there are no towns and the wards are represented in the city government, there is no county legislature. The people of each county elect a sheriff, county clerk and district attorney, which have directly to do with the administration of justice. Thus the county in Greater New York has become a judicial division very much like the English county.

Governmental Divisions.—The city, besides its divisions for judicial purposes, is divided in seven other ways for the purposes of government. The first three are divisions relating to the national and state governments and consist of congressional, and state senatorial and assembly districts. Three others are for the purposes of local government. Of these the most general is a division into five boroughs. There are twenty-five districts of local improvements, which are similar in size to the senatorial districts; and the city is further divided into wards, or aldermanic districts, in a general way equal in extent to the assembly districts. The seventh division is for the purposes of election, and cuts up the other divisions into a large number of election districts.

* The *city* of Rome embraces the whole *town* of Rome.

1. LEGISLATIVE BRANCH.

The Board of Aldermen.—The Legislative Branch consists of a single chamber known as the Board of Aldermen, each of whom is elected by the people of a ward for two years. The entire city elects for the same term the President of the Board, who besides his duties as presiding officer acts as mayor in case of the death, disability or absence of the mayor. The powers and duties of the Board of Aldermen are similar to those of the legislative body in other cities.

Boards of Local Improvements.—Besides the board of aldermen, who act for the entire city, each district of local improvements has a legislative body, known as the Local Board, which consists of the aldermen in the district presided over by the president of the borough in which the district is located. The legislative powers of the Board are limited to matters of local improvement in the district and are subject to the consent of the board of estimate and apportionment.

2. EXECUTIVE BRANCH.

The Mayor.—The Executive Branch includes the Mayor, the Administrative Departments and the Presidents of Boroughs. The Mayor is elected by the entire city for a term of two years. His powers and duties are similar to those of the mayors in other cities, but his appointive power is more extensive. His veto power is limited as that of other chief executives, except that his veto of a franchise is absolute.

The Administrative Departments.—These are at present fifteen in number and in general have a single officer at the head, who is appointed by the mayor for his term of office. The principle exceptions are in the Department of Finance, the head of which is the Comptroller, who is elected by the entire city, and in the Department of Education, the Commissioners of which number over forty and are appointed by the mayor for five years. The functions of these different departments are similar to those of the executive departments in other cities, except in the case of public works, which are chiefly under the direction of the borough presidents.

President of a Borough.—He is elected by the voters in each borough for a term of two years. He is the executive officer having charge of the public works and local improvements in the borough, which are determined upon by the local boards.

The Board of Estimate and Apportionment.—This consists of the mayor, president of the board of aldermen, comptroller and the presidents of the five boroughs. Besides having a veto power upon the resolutions of local boards, it annually prepares and submits to the board of aldermen an estimate of the expenses of each administrative department for the succeeding year. These estimates, when passed upon by the board of aldermen form the *city budget*, which is the amount to be raised for municipal purposes by taxation.

3. JUDICIAL BRANCH.

The Judicial Branch of the city includes several minor courts which are referred to in the chapter on the Judiciary. (See pages 61, 65.)

3. THE VILLAGE.

Rural Communities.—The public needs of a city are very different from those of the rural sections of the State, for its dense population requires lighted streets at night, a public water supply and other conveniences, which it would be impossible to have in a farming region; and the larger the city the greater the public advantages it has. Throughout the agricultural counties of the State there are scattered a great many small communities, called *villages*, in which there is a demand for sidewalks, police protection, water-works and many other things for public protection and convenience, which are found in a city.

Villages, Parts of Towns.—Unlike a city, a village remains a part of the town or towns in which it is located

and is subject to their jurisdiction. Its residents pay taxes to the town, obey its by-laws and take part in the election of town officers. But for the purpose of its peculiar needs it has its own government and separate officers.

Organization of Villages.—Villages are organized under a general law which provides that upon the application of twenty-five adult freeholders residing in a “territory not exceeding one square mile, or an entire town, containing in either case a population of not less than two hundred, and not including a part of a city or village,” the supervisor may direct an election of the resident taxpayers of the territory to determine the question of incorporating, and if at such election a majority of the votes be in favor of the proposition, then upon filing a certificate of that fact in the office of the county clerk the village is incorporated.

Classification of Villages.—There are, under the state laws, four classes of villages: that of the first class includes villages with five thousand or more population; of the second class, those from three thousand to five thousand; the third class, from one thousand to three thousand; and the fourth, with less than one thousand inhabitants. For each class there are general laws relating to their government, which, like that of the city, is divided into three branches.

Qualification of Officers.—Any resident of the village is eligible to office, except that the president, trustees and fire, water, light, sewer or cemetery commissioners must be taxpayers.

1. LEGISLATIVE BRANCH.

President and Board of Trustees.—The Legislative Branch consists of the *Village President*, elected annually, and a *Board of Trustees* as follows: (1) In the first class villages, not less than two or more than eight. (2) In the second class villages, not less than two or more than six. (3) In the third and fourth class villages, not less than two or more than four. The President holds office for one year and the Trustees for two, one-half of the Trustees being elected at each village election, which is held annually on the third Tuesday in March. The President presides at the board meeting, and is entitled to vote, but he possesses no right of veto. The Board has power to make by-laws, or ordinances, for the village and to direct the expenditure of the public money; to regulate and maintain the public water supply, sewers, streets, public lock-up, fire and police departments; to regulate certain trades; to fix the salaries of village officers who are paid for their services; and to act as assessors in case none are elected. Any proposed expenditure which is of an extraordinary nature, has to be submitted by the Board to the tax-payers either at the time of the annual election, or at a special election called for the purpose.

2. EXECUTIVE BRANCH.

President, Treasurer, Clerk, etc.—The *Executive Branch* has as its chief the *Village President*. It is his duty to see that the by-laws of the village and the general laws of the State are enforced, and for this purpose he can command the village police and fire departments. Besides

the President, the village officers are a Treasurer, a Clerk, Assessors, Tax Collector and Street Commissioner, who are usually elected annually. The *Treasurer* receives and pays out the public money. The *Village Clerk*, who is also the clerk of the board of trustees, is the custodian of the public records of the village. The powers and duties of the *Assessors* and *Collector* are described in the chapter on Taxation. (See pages 124, 126.) The *Street Commissioner* has charge of the streets, bridges and walks of the village, under the direction of the board of trustees. The state law provides that every incorporated village shall have a *Board of Health*, the members of which, numbering from three to seven, are appointed by the board of trustees. This Board chooses a physician as the *Health Officer* of the village, and has general supervision of all matters relating to the public health, such as sewage, contagious diseases and exposure of garbage.

3. JUDICIAL BRANCH.

Police Justice.—The Judicial Branch consists of a *Police Justice*, whose jurisdiction is similar to the criminal jurisdiction of a justice of the peace (see page 64), and he also has jurisdiction of violations of the village by-laws or ordinances.

Lawsuits for and against a Village.—A village being a public corporation like a city, can sue and be sued, and for the prosecution or defense of an action the board of trustees may employ an attorney.

4. LIMITATIONS ON LOCAL GOVERNMENTS.

Limitations on Use and Amount of Public Moneys.—In order to prevent local governments from the misuse of public moneys and credit, the constitution provides that:

No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation ; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed *ten per centum* of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; . . . (Art. VIII., Sec. 10.)

Local, State and Federal Governments.—Counties, towns, cities and villages are directly subject to the control of the State in all matters except those of purely local concern. In this respect they resemble the States in their relation to the United States. But their governmental authority resembles that of the nation rather than that of the state, for they can exercise only those powers specifically granted to them. Local communities, state and nation thus illustrate two methods of limiting the powers of government: the state—by the *prohibition* of certain powers; the nation and local communities—by the *grant* of certain powers and the *prohibition* of others.

CITY GOVERNMENT.

Legislative Branch:			PRINCIPAL DUTIES AND POWERS.	
NUMBER.	MODE OF SELECTION.	TERM.		
COMMON COUNCIL OR BOARD OF ALDERMEN.				
2 from each ward	Elected by wards	2 years	To levy taxes; borrow money; fix salaries; appropriate money; enact ordinances and grant franchises and licenses. (<i>Limited by veto power of Mayor.</i>)	
1	Elected by city	" "	To preside over Council. (<i>To act as Mayor in case of death, disability or absence.</i>)	
Executive Branch:				
1	"	"	To see that the laws and ordinances are enforced; appoint certain officers; send statement of city affairs to Council; command police and firemen and approve or veto legislation.	
1 or 3	Elected by city or app. by Mayor	"	To place valuation on taxable property and determine amount of each person's tax.	
1	ditto	"	To receive and pay out city moneys and report financial condition to Council.	
1	App't'd by Mayor	"	To keep city records and act as clerk to the Council.	
1 or 2	"	"	To prosecute and defend actions and advise other city officers.	
ADMINISTRATIVE DEPARTMENTS.				
(Composed of one Commissioner or a Board of several.)			Each Department has supervision of a particular branch of the city's business, such as <i>Education, Public Works, Health, Public Safety, Charities</i> etc. Among these should be classed the municipal <i>Civil Service Commission.</i>	
1 or several	Elected by the city usually	2-5 yrs.		
Judicial Branch:				
1 or several	Elected by the city usually	6 years	To try minor criminal and civil actions.	

* In some cities these two offices are joined into one, the officer being elected Chamberlain.

VILLAGE GOVERNMENT.

	NUMBER.	QUALIFICATIONS.	MODE OF SELECTION.	TERM.	PRINCIPAL POWERS AND DUTIES.
Legislative Branch:					
BOARD OF TRUSTEES	2-3	Be taxpayers	Elected	2 years	To make by-laws; appropriate public moneys; maintain waterworks, sewers, streets, police and fire departments; regulate certain trades and fix salaries.
(With Village President as a member.)					
Executive Branch:					
VILLAGE PRESIDENT	1	A taxpayer	"	1 year	To see that the by-laws of the village are enforced and to have general charge of village affairs.
TREASURER	1	A resident	"	"	To receive and pay out public moneys.
CLERK	1	"	"	"	To keep the village records and act as clerk for the Board of Trustees.
ASSESSORS	3	Residents	"	"	To value taxable property.
TAX COLLECTOR	1	A resident	"	"	To collect the taxes.
STREET COMMISSIONER	1	"	"	"	To take charge of the building and repairing of streets and bridges.
BOARD OF HEALTH	3-7	Residents	Appointed by Trustees	"	To take charge of the public health and elect a <i>Health Officer</i> .
Judicial Branch:					
POLICE JUSTICE	1	A resident	Elected	4 years	To try minor criminal offenses and violations of village by-laws.

GENERAL COMPARISON OF GOVERNMENTS.

	NATION.	STATE.	COUNTY.	TOWN.	CITY.	VILLAGE.
Legislative:	Congress	Legislature	Board of Supervisors	Town Meeting	Common Council or B'd of Aldermen	Board of Trustees
Executive:	President	Governor	Sheriff	Supervisor	Mayor	Village President
	Secretary of State	Secretary of State	County Clerk	Town Clerk	City Clerk	Village Clerk
	Sec'y of Treasury	Comptroller and State Treasurer	County Treasurer	Supervisor and Collector	City Treasurer	Village Treasurer
	Secretary of War	Attorney General	District Attorney		City Attorney	Village Engineer
Judicial:	Attorney General	State Engineer and Surveyor			City Engineer	
	Other Departm'ts	Civil Service Com.			Civil Service Com.	
	Civil Service Com.	Com's of Charities	Supt. of the Poor	Overseer of Poor	Supt. of the Poor	Street Commis'r
		Railroad Com'n	B'd of Supervisors	Highway Com'rs	Street Commis'rs	Assessors
Judicial:		B'd of Equalizat'n	School Commis'rs	Assessors	Assessors	
		Regents and Supt. of Education		School Trustees	B'd of Education	
		Supt. of Pub. W'ks			B'd of Pub. W'ks	
Judicial:	Supreme Court	Court of Appeals	County Court			
	Circuit Court of Appeal	App. Division of Supreme Court	County Court	Justices' Courts	City Courts	Police Court
	Circuit and District Courts	Supreme Court	County Court			
	Court of Claims	Court of Claims	Surrogate's Court Coroners' Courts			

CHAPTER VII.

EDUCATION.

Importance of Education.—One of the most important duties of the State is that of the instruction of its youth, not only because education produces culture and a greater capacity for enjoyment, but because by increasing general intelligence it makes people more capable of self-government. In view of such considerations the State has assumed the responsibility of providing schools and means of instruction and of defraying the expenses of such schools by taxation upon the people and property within the State.

Schools under the Dutch.—The Dutch settlers recognized the importance of popular education. One of the requirements imposed upon the Patroons was that of supplying schoolmasters for their tenants, and among the passengers who accompanied the first Director General upon his voyage to America was a teacher, Adam Roelandsen. Later, a common school was established at New Amsterdam, and in 1659 a Latin school was started whose reputation drew pupils from the then distant colonies of Virginia and the Carolinas.

Schools under the English.—Under English domination interest in popular education decreased. A few families employed private tutors, and others sent their children to New England schools; but the mass of the people were allowed to grow up in ignorance and superstition. There were, however, one or two efforts to supply instruction, such as the establishment of a grammar

school in 1702 and a free school in 1732, in which instruction was given in Latin, Greek and mathematics. Another effort on the part of the English Government was the organization of King's College (now Columbia University) in 1754 for the purpose of teaching, among other things, the duty of obedience to England, which at that time was being questioned at Yale and Princeton.

Schools under the New State.—At the time of the establishment of the State Government in 1777, there was no system of public schools in the State; but one college, King's; and only a few select schools. The first step toward a systematic control of education was taken by the Legislature in establishing in 1784 The Regents of the University of the State of New York, a body to which was given control of Columbia College, with the power to incorporate other colleges and academies, but with no authority over the so-called "common schools." To this Board additional powers were given from time to time by the Legislature, and by the present Constitution it is provided that:

The corporation created in the year one thousand seven hundred and eighty-four, under the name of The Regents of the University of the State of New York, is hereby continued under the name of The University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the Legislature, shall be exercised by not less than nine regents. (Art. IX., Sec. 2.)

The Regents.—The University of the State of New York is a federation of universities, colleges, schools for professional and technical instruction, academies, high schools, academic departments of schools, libraries and other educational institutions incorporated by the Regents.

Object.—The object of the University is:

To encourage and promote higher education, to visit and inspect its several institutions and departments, to distribute to or expend or administer for them such property and funds as the State may appropriate therefor or as the University may own or hold in trust or otherwise, and to perform such other duties as may be intrusted to it.

Power of Regents.—Under this power the University may grant charters to colleges and other educational institutions; may inspect their work and require reports; may establish examinations and confer certificates, diplomas and degrees to successful candidates; and may prescribe rules for entrance into many of the learned professions. In the execution of this work it employs a number of inspectors who visit the various institutions under its charge, and a large corps of examiners who review papers of candidates which are submitted at the examinations held at stated times throughout the State.

Government of Regents.—The University is governed by a Board of Regents consisting of nineteen members, elected for life by the legislature, and the governor, lieutenant-governor, secretary of state and superintendent of public instruction, who are *ex officio* members. The officers are a Chancellor and Vice-Chancellor, who serve without salaries, and a Secretary, who is the executive and financial officer, and who receives a salary fixed by law.

Regents' Departments.—The work of the University is distributed among six departments as follows:

- (1) *Administrative*, which has control of matters relat-

ing to charters, finances, legislation, printing and all other work not assigned to any other department.

(2) *College*, which has charge of universities, professional, technical and other special schools, and all matters pertaining to degrees and licenses.

(3) *High school*, which exercises certain powers of visitation, including examinations and the issuing of certificates, over high schools and academies.

(4) *Home education*, the work of which is to encourage the efforts of study clubs, lecture courses, libraries and reading circles by the loaning of books and other aids.

(5) *State Library*, which has charge of the State Library, established by the Legislature in 1818.

(6) *State Museum*, which has charge of the State Museum, established in 1843. Connected with it are the State Geologist, State Botanist, State Entomologist and State Paleontologist.

The Common Schools.—The University of the State of New York, though possessing such extensive powers, has no authority over the common schools of the State, nor any charge over the instructing or licensing of teachers.

History of Common Schools.—The common school system dates from 1795, in which year the Legislature voted an appropriation of fifty thousand dollars a year for five years to be distributed among the counties, according to population, on the condition that each county should raise by tax for school purposes a sum equal to the amount appropriated to it. In 1800 the Legislature made provision for raising the sum of one hundred thousand dollars annually by a lottery, to be used for school pur-

poses. In 1805, upon the recommendation of Governor Lewis, five hundred thousand acres of the public lands of the State were sold, and the proceeds were set aside as a permanent fund, the interest of which was to be distributed among the schools of the State. There were yet, however, no free schools. People sending children to school were obliged to pay for their instruction ratably. Nor was there any adequate supervision or uniformity of instruction or provision as to qualifications of teachers. The lack of these essentials led to the appointment, in 1813, of Gideon Hawley as the first Superintendent of Schools. In 1821 the schools were put under the charge of the Secretary of State. In 1835 provision was made for the instruction of teachers in order to properly equip them for their work, and this led to the establishment of the Albany Normal School in 1844.

Ten years later, in 1854, the office of State Superintendent was created, and in 1867 the schools of the State were made free. To perpetuate this act the first section of Article IX. of the Constitution directs that:

The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.

School Districts; Voters.—In the organization of this school system, which extends to all parts of the State, each town is divided into *school districts*. In each school district an *annual meeting* is held on the first Tuesday of August in each year, at which the following persons have the right to vote:

Any citizen of the United States of full age, who has resided in the district for thirty days, and who either

(a) owns or hires or has contracted to purchase lands subject to taxation in such district ; or

(b) is the parent of a child who has attended school in such district at least 8 weeks prior to such meeting ; or

(c) has residing with him a child, not his own, who has so attended school in such district ; or

(d) has personal property of the value of fifty dollars, for which he is assessed on the last assessment roll of the town.

And "no person shall be deemed to be ineligible to vote at any such school meeting, by reason of sex, . . ."

Powers of School Meetings.—At such school meetings the voters have power to

(a) elect one or three trustees, a district clerk, a collector, and if they desire, a treasurer;

(b) designate the location of a schoolhouse;

(c) vote a tax upon property of the district to build, repair, purchase or lease a building for a schoolhouse, for the purchase of books and maps, for the support of a district library, and for the payment of teachers' wages; and

(d) take such other action as is necessary to protect the property of the district.

Terms of District Officers.—All district officers must be qualified voters of the district and able to read and write. Their terms are for one year, except that in districts having three trustees, each is elected for three years, one going out of office each year.

Duties of Trustees.—The chief duties of trustees are to care for the property of the district; to give notice of district meetings to the voters; to make out a tax list for every tax voted at a district meeting and give it to the collector for collection; to engage qualified teachers; to establish rules for the conduct of the school and prescribe the course of study; to pay the wages of the teacher by giving orders upon the supervisor of the town for public

moneys in his hands apportioned to the district, and upon the collector for moneys collected in the district by tax; to make an annual report to the school commissioner showing, among other things,

- (a) the whole number of days of school during the year,
- (b) the amount of expenditure and purpose,
- (c) the number of children attending school,
- (d) the number of children residing in the district;

and to render at the annual meeting an account of his office for the past year.

Duties of other District Officers.—It is the duty of the district clerk to attend all district meetings and keep a record of the proceedings, to preserve the books and records of the district and deliver them to his successor. It is the duty of the collector, whenever he receives a tax list from the trustee, to notify the taxpayers of the fact to collect the tax and pay the moneys out upon the order of the trustee, and to render a report at the annual meeting of his collections, payments and the moneys in his hands, which he must deliver to his successor.

Union Schools.—For the purpose of increasing school facilities, a district, or two or more districts together, may organize a *union school*, in which case the former officers of the district cease, and the voters elect a board of education consisting of not less than three nor more than nine members, which may adopt rules for the conduct of the school, prescribe the course of study and the text-books to be used, purchase sites and erect such school-houses as may be directed by the voters, take charge of the property of the district, employ teachers, and, in

districts having a population of five thousand or more, employ a *superintendent of schools*, to whom there is paid by the State toward his salary the sum of eight hundred dollars annually.

Control of Union Schools.—If the boundaries of the union district are the same as those of an incorporated village, the officers are elected at the regular village election. If not, the annual meeting occurs on the first Tuesday of August.

City Schools.—In cities the schools are under the control of *boards of education*, the members of which are usually elective, and which in the conduct of the schools and employment of a superintendent possess powers and duties similar to those of boards of education in union school districts. They are required to make an annual report to the State Superintendent of Public Instruction.

School Commissioners.—The school districts within a county, exclusive of those in cities, are grouped by the board of supervisors into *school commissioner districts*, for each of which there is elected at a general election by the legal voters of such district a *school commissioner* for the term of three years. Such commissioner receives an annual salary of not less than one thousand dollars. It is his duty to ascertain the boundaries of school districts and change them as necessity requires; to visit and inspect the schools within his district; to inquire into their management, instruction, discipline and textbooks; to direct necessary repairs to school buildings; to examine into the qualifications of teachers under direction of the State Superintendent; to annul certificates; to

meet with the other commissioners of his county, if any, for the distribution of public moneys among the school and union districts of the county; to conduct under the direction of the State Superintendent examinations for state scholarships in Cornell University; to provide for the conduct within his district of a teachers' institute at least once in every year; and to make an annual report to the State Superintendent of all educational matters within his district.

Superintendent of Public Instruction.—The *Superintendent of Public Instruction* is elected by the Legislature for a term of three years. He receives a salary of five thousand dollars per year. He has general control of all public schools, including high schools; directs the course of instruction; prepares examinations for teachers; apportions and distributes the public moneys for the support of schools; decides appeals involving school controversies; has general control of teachers' institutes; establishes and maintains training schools; supervises institutions for the instruction of the deaf, dumb and blind; appoints pupils to the normal schools; has charge of the Indian schools; and enforces the compulsory education law. He is *ex officio* a regent of the University, a member of the board of trustees of Cornell and Syracuse Universities and other institutions. He receives and compiles the school reports of the State and makes an annual report of the condition of schools to the Legislature.

Training of Teachers.—As a natural feature of the development of the schools, there have been provided increased facilities for the training of teachers. Among the agencies employed for this purpose are the following:

(a) Normal schools, which give extensive courses in the history, theory and methods of teaching.

(b) Pedagogical departments in several of the universities and colleges of the State.

(c) Training schools in cities and training classes in villages.

(d) Teachers' institutes, which are conducted under the direction of the State Superintendent once a year for the period of five days in each school commissioner district, and which every teacher in such district is obliged to attend.

(e) Summer schools, which are conducted under the direction of the State Superintendent during the summer vacations.

Teachers' Qualifications.—In order to guard against the employment of unqualified persons as teachers the statutes declare that no public moneys, whether apportioned by the State or raised by local taxes, shall be paid to a teacher who does not possess a license or certificate to teach. These certificates are as follows:

(a) *State uniform examination certificates.*—These are of three grades. *Third grade*, which are issued to persons who have had no teaching experience or special training. They are good for only one year, and but one can be issued to the same person. *Second grade*, which are issued to those who have either taught ten weeks under a third grade certificate or attended a normal school or training class for one year. They are issued for three years, and but one can be granted to the same person. *First grade*, which are issued to those who have taught for at least two years. They are issued for ten years, and may be renewed at their expiration for a further period of ten years.

(b) *State certificates*, issued for life by the State Superin-

tendent to candidates of two years' experience who successfully pass examinations in some twenty-five prescribed subjects.

(c) *Normal school diplomas* issued to graduates of normal schools, and which are good for the life of the holder.

(d) *Training school and training class certificates*, which are issued for a period of three years, and are renewable at their expiration in the same manner as first grade certificates.

(e) *College graduates' certificates*, which are issued by the State Superintendent to graduates of approved colleges who have had three years successful experience in teaching in public schools.

(f) *Normal school diplomas* from other States when endorsed by the State Superintendent of this State.

Compulsory Education.—Although the State has provided such a complete school system, yet it has been found necessary to devise some means by which attendance of children can be made compulsory. To that end the so-called Compulsory Education Law was passed, the principal provisions of which are that unless receiving other competent instruction or prevented by mental or physical conditions,

(a) every child between the age of eight and twelve must attend school during its full session from October 1 to June 1 ;

(b) every child between the age of twelve and fourteen must attend school at least eighty days in each year, and the full period from October 1 to June 1, unless regularly employed in useful service ; and

(c) every child between the age of fourteen and sixteen must attend school for the full period from October 1 to June 1, unless regularly employed.

Cost of Schools.—For the support of the public schools from thirty to thirty-five millions of dollars are annually expended. Of this amount about four millions are distributed by the State Superintendent from general taxes

and state funds to the various cities and counties in proportion to the number of teachers employed, attendance of students, and expenditures for libraries. The amount so given to each county, except the portion to which a city therein may be entitled, is then divided by the school commissioners of the county and distributed among the school and union school districts. As the amount so distributed by the State Superintendent is not sufficient to pay all the charges of the schools, the balance is raised by local taxation.

State School Funds.—The school funds of the State are:

(a) The Literature Fund, which arose in 1786 from the sale of public lands. Its income, about \$12,000, is distributed by the Regents.

(b) The Common School Fund, which arose from the sale of public lands in 1805. Its income, about \$170,000, is distributed by the Superintendent of Public Instruction.

(c) The United States Deposit Fund, which arose in 1836 from a distribution of the surplus in the United States Treasury among the States. Of its income, \$75,000 is distributed by the State Superintendent, \$25,000 is added to the capital of the Common School Fund, and the balance, about \$85,000, is distributed by the Regents.

(d) The College Scrip Fund, which arose from the sale of western public lands granted by the United States to the State for the support of a State Agricultural College. Its income, \$20,000, is paid to Cornell University in return for the free scholarships assigned by it to successful candidates at competitive examinations held in each of the 150 assembly districts of the State.

In regard to these funds the Constitution directs that:

The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund,

shall be respectively preserved inviolate. The revenue of the said common school fund shall be applied to the support of common schools ; the revenue of the said literature fund shall be applied to the support of academies ; and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common school fund. (Art. IX., Sec. 3.)

Sectarian Schools.—Besides the public schools supported by the State, there are many other institutions of learning under the control of religious denominations. These are maintained wholly from private resources, for in conformity with the principle that state and church should be entirely separate, the Constitution provides that:

Neither the State, nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught. (Art. IX., Sec. 4.)

CHAPTER VIII.

TAXATION.

Necessity of Taxes.—The conduct of state and local governments calls for large expenditures of money in the payment of salaries to officials, the building and maintenance of public institutions and property, repairs and care of canals, roads and bridges, the support of paupers, preserving the peace, and other similar matters of state or local interest. These expenses are met by *taxation*, which is a charge upon property in proportion to its fair value

in such a way that the property of each town or city not only pays its own local expenses, but also bears its proportionate share of the expenses of the county and of the State.

Taxable Property.—In theory, taxes are levied upon all property, but in practice some property is exempt from this charge. Such are United States bonds and property of the United States ; pension money and real property purchased with pension money ; property used exclusively for religious, charitable, educational, literary, and historical purposes ; the real property of agricultural societies used for exhibition grounds ; deposits in savings banks ; and in some cities and villages a certain amount of the property of persons who have served for a certain period as volunteer firemen.

Sources of State Revenues.—Within the past few years there has been a growing tendency to relieve the property of individuals from taxation for state purposes and to raise the state revenues from special taxes and licenses, with the result that although state expenses are rapidly increasing, the rate of the *state tax* on each dollar of the valuation of property has been steadily diminishing. The chief sources of the revenues of the State at present are from special taxes, as the taxes on corporations ; taxes on inheritances, called the *transfer tax* ; licenses, as *liquor tax* ; and the general state tax on property.

Corporation Tax.—Taxes on corporations are, in general,

(a) a charge, at the time of organization, of a prescribed per centum upon the amount of the capital stock ; or,

(b) if a corporation is organized in another State or country, a

charge of a prescribed per centum upon its capital stock, for the privilege of doing business within this State; and

(c) an annual charge of a prescribed per centum upon the capital stock.

Inheritance Tax.—The *Inheritance Tax* is a charge upon the property of a deceased person. After the value of such property has been ascertained, the following amounts are collected by the county treasurer: Upon all personal property, of the value of ten thousand dollars or over, which passes to either the father, mother, husband, wife, child, brother, or sister of the deceased, at the rate of one per centum; and upon all property of the value of five hundred dollars or over, which passes, to any other person, at the rate of five per centum; but there is no charge upon any property devised or bequeathed to a religious corporation.

Liquor Tax.—The *Liquor Tax* is a charge laid upon the sale of liquors, wines, and other intoxicants. The tax is paid by the person engaged in the business to the county treasurer of his county, who pays a part of the amount to the State Treasurer and the rest to the supervisor of the town or treasurer of the city in which the traffic is carried on, to be used in paying the expenses of such town or city. The amount of the charge is governed by the character of the traffic and size of the place where it is to be conducted.

State Tax; Assessment Rolls.—The *general state tax* is a charge upon all taxable property within the State, and there are employed in its collection not only state officers, but also officers of counties, cities, and towns. Each year in all the towns and cities of the State, the

assessors prepare *assessment rolls*, which must contain, among other things, the names of all taxable persons, with a statement of the real and personal property of each and its value. When the roll is completed public notice is given to the people of the town or city that upon a certain day the assessors will meet at a certain place to listen to complaints and correct any errors in the roll. On the day named, called "Grievance day," any person who is injured by the assessment in any manner may appear before the assessors and have his assessment corrected.

County Equalization.—After the roll is corrected, it is taken with the rolls of the other towns and cities of the county to the annual meeting of the board of supervisors. Here the total valuation of the property enumerated in each roll may be increased or diminished, so that each town may bear its just portion of the county and state taxes. This is called *equalization*.

State Equalization.—After the county equalization has been completed, the county clerk gives the Comptroller of the State a statement of the total valuation of the county. The statements from all the counties are then given to the State Board of Equalization, who equalize the assessed valuations of the counties in the same manner as boards of supervisors equalize the valuations of towns and cities.

Levying of State Tax.—After the valuations of the counties have been equalized, the Comptroller apportions the state tax levied by the Legislature among the counties in proportion to their equalized valuations, and sends to the clerk of each county a statement of the amount of state tax which that county must pay.

Levying of County Tax.—In each county the board of

supervisors ascertain the amount of money to be raised for county expenses, and this amount, together with the county's portion of the state tax, is apportioned by the board of supervisors among the several towns and cities of the county in proportion to their equalized valuation.

Levying of Town and City Taxes; Collection.—To the amount so levied upon each town and city for state and county taxes, the board of supervisors adds the amount necessary to be raised for town expenses and directs each town collector to collect the whole amount from the persons whose names appear in the assessment roll of his town. In a city, the common council levies the tax for local purposes, which is usually collected at the same time as its portion of the state and county tax. In villages, the local tax for village purposes is levied by the board of trustees, and is collected by its financial officer, usually at a different time from the state, county and town taxes.

Distribution of Tax Moneys.—After the taxes have been collected the moneys are distributed as follows: In towns, the collector pays to the commissioner of highways the sum raised for roads and bridges; to the overseer of the poor, the sum raised for the support of the town poor; to the supervisor, the sum raised for all other town expenses; and to the county treasurer, the sum raised for state and county taxes. In cities, the treasurer retains the sum raised for the expenses of the city and pays to the county treasurer the sum raised for state and county taxes. In counties, the county treasurer retains the amount raised for county expenses and pays to the State Treasurer the sum levied upon the county for the state tax.

CHAPTER IX.

CORPORATIONS.

Growth of Law; Corporations.—It has been seen in the discussions of the earlier chapters of this volume that laws and governmental institutions are the outgrowths of the development of the people and have changed and expanded to adapt themselves to new ideas and new customs.

To nothing do we owe more for this growth than to trade and manufacture. Their extension has not only introduced new ideas, but has created new conditions to which society has had to adapt itself and for whose control new rules have constantly had to be made. Thus for the purpose of increased financial returns, and to diminish the danger of loss occasioned by the death of the owner of a business, there was developed the *corporation*, an association of men possessing the same rights of property and subject to the same duties to society as a single individual, which rights and duties do not cease upon the death of the persons forming the corporation, but continue in their successors during the full period for which the corporation is formed. Such an association or corporation is an “artificial person” created by law for a definite purpose, with general power to buy and sell property, transact business, and, if necessary, sue and be sued. By means of corporations it is possible to invest immense capital in the conduct of a business, and thus increase its extent and profits, and so, to-day, corporations are operating great railroad and steamship lines, conducting manu-

facturing plants, and otherwise transacting a very large part of the business of the world.

Formation of Corporations; Charters.—Formerly corporations were formed in this State by special acts of the Legislature, called *charters*, which gave the members of the corporations, called *stockholders*, authority to conduct business, and defined the peculiar powers of the corporations. (See Book I., page 210.) As, however, corporations increased, there resulted great confusion through the lack of uniformity in their charters and the absence of any means by which their powers could be readily determined. Uniform charters were seen to be a necessity, and to secure this the Constitution provides that:

Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed. (Art. VIII., Sec. 1.)

Dues [debts] from corporations shall be secured by such individual liability of the corporators, and other means as may be prescribed by law. (Art. VIII., Sec. 2.)

The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons. (Art. VIII., Sec. 3.)

Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation or private undertaking. . . . (Art. VIII., Sec. 9.)

Banking Corporations.—For control of State banking corporations the Constitution provides that:

The Legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation ; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The Legislature shall have no power to pass any act granting any special charter for banking purposes ; but corporations or associations may be formed for such purposes under general laws. (Art. VIII., Sec. 4.)

The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association or corporation, issuing bank notes of any description. (Art. VIII., Sec. 5.)

The Legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie. (Art. VIII., Sec. 6.)

The stockholders of every corporation and joint-stock association for banking purposes shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association for all its debts and liabilities of every kind. (Art. VIII., Sec. 7.)

In case of the insolvency of any bank or banking association the billholders thereof shall be entitled to preference in payment over all other creditors of such bank or association. (Art. VIII., Sec. 8.)

In pursuance of these provisions the Legislature has enacted general laws, among which are The Business Corporation Law, The Stock Corporation Law, The General Corporation Law, The Banking Law, and The Transportation Corporation Law.

Statutory Provisions.—Before a corporation can begin busi-

ness it is necessary that the persons forming it should deposit in the office of the Secretary of State, and the office of the clerk of the county where the corporation is located, a certificate of incorporation, which must contain a statement, among other things, of

- (a) the name of the corporation,
- (b) its location and object for which formed,
- (c) the amount of its capital stock,
- (d) the number of shares into which the capital is divided,
- (e) the time for which it is formed,
- (f) the number of its directors and the names of these for the first year, and
- (g) the names of the stockholders and the number of shares which each has.

At least once a year there must be a general meeting of the stockholders for the election of officers and transaction of business, at which meeting each stockholder is usually entitled to one vote for each share of stock owned by him.

Each year, also, business corporations are obliged to make a report which is deposited in the same places as the certificate of incorporation, which shows the amount of its capital, and contains a statement of its financial condition.

CHAPTER X.

MILITIA.

Composition.—It was seen in the study of the United States Constitution that among the powers given to Congress was that “to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions.” (See Book I., page 102.) The Constitution of the State of New York provides that:

All able-bodied male citizens between the ages of eighteen and forty-five years, who are residents of the State, shall constitute the militia, subject, however, to such exemptions as are now, or

may be hereafter created by the laws of the United States, or by the Legislature of this State. (Art. XI., Sec. 1.)

Exemptions.—The exemptions mentioned in this section include, among others, members of fire and police departments, persons who have served a stated term as a member of a fire company, or five years in the active militia of this state, certain judges, sheriffs, ministers, and conductors and engineers of railways, but even these are liable to military duty in case of actual war, insurrection or invasion.

Commander.—The Governor of the State is commander-in-chief of the state militia, which he has power to order into active service in case of riot, insurrection, or invasion. This was done by Governor Flower upon the occasion of the Buffalo strike in 1892.

Active Force.—The Legislature may provide for the enlistment into the active force of such other persons as may make application to be so enlisted. (Art. XI., Sec. 2.)

The militia shall be organized and divided into such land and naval, and active and reserve forces, as the Legislature may deem proper, provided, however, that there shall be maintained at all times a force of not less than ten thousand enlisted men, fully uniformed, armed, equipped, disciplined and ready for active service. And it shall be the duty of the Legislature at each session to make sufficient appropriation for the maintenance thereof. (Art. XI., Sec. 3.)

Divisions of Active Force.—The active force as provided for consists of the National Guard and the Naval Militia. The qualifications necessary for enlistment are that a person shall be able-bodied, able to read and write, a citizen of the United States, and not less than eighteen years of age nor more than forty-five. The term of enlistment is five years, but upon the expiration

of such term a person can re-enlist for one year or longer. In theory the National Guard consists of brigades, which in turn are composed of regiments. Each regiment is formed of from eight to twelve companies, which are grouped into battalions, there being two or three battalions in each regiment. In practice, however, there are many, so-called, "separate" companies, not belonging to any regiment, but which are joined into battalions.

Officers.—The commanding officer of the National Guard is a Major-General, who, by the provisions of Article XI., section 4, is appointed by the Governor with the consent of the Senate. Brigadier-generals, colonels, lieutenant-colonels and majors are elected by the company officers of the brigade, regiment or battalion, which they command, and captains and lieutenants are elected by the members of their company. But before receiving their commissions officers are required to show their knowledge of military affairs by examination before a board appointed for that purpose by the Governor, and any one who fails to pass such examination is made ineligible as an officer of the militia for the term of one year.

It is further provided that :

The commissioned officers shall be commissioned by the Governor as commander-in-chief. No commissioned officer shall be removed from office during the term for which he shall have been appointed or elected, unless by the Senate on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the sentence of a court-martial, or upon the findings of an examining board organized pursuant to law, or for absence without leave for a period of six months or more. (Art. XI., Sec. 6.)

Benefit of National Guard.—A most important service of the National Guard is to preserve peace and protect property, when the civil authorities are unable to do so, for in case of riot or other tumult, not only is it subject to the order of the Governor, but it is provided by statute that:

A justice of the Supreme Court, a county judge . . . or sheriff . . . or mayor . . . may call for aid upon the commanding officer of the national guard . . . stationed there . . . And the commanding officer . . . shall order out, in aid of the civil authorities the . . . force . . . under his command . . .

CHAPTER XI.

POLITICAL PARTIES AND ELECTIONS.

Officers Elected.—Throughout the study of the federal and state institutions it has been noted that certain officers and representatives are elected by vote of the people of the political district for which they are chosen. This leads us to the consideration of elections and the work and use of political parties.

Division into Parties.—In every country which possesses a popular government, the people are divided into at least two marked classes—the conservatives and the liberals. The United States is no exception to this rule. No sooner had the Constitution been proposed and adopted than a division arose among the people on the question of the powers of the general government. One party, called the Federalists (the liberals), believed that the government possessed not only the powers specifically granted to it by

the Constitution, but also all others which could be reasonably implied. The other party, called the Anti-Federalists (the conservatives), contended that the government was limited to the exercise of those powers which were particularly named in the Constitution, and that it could do nothing beyond them. Under different names these two parties have continued ever since the first administration of Washington, though other great questions, such as the extension and abolition of slavery and, at the present time, national currency and territorial expansion, have given rise to other divisions or re-divisions of the two great parties.

Use of Parties.—Parties, then, grow out of the differences of opinion upon questions of state or national importance, and are useful in uniting into one body all those who possess the same belief, thus presenting concise and definite views upon public questions, and proposing for election men who favor the application of these views in the administration of their office. Theoretically, a voter is at liberty to vote for any person for any office, but in practice the ballots are cast for those persons who have been nominated by the political parties, each of which selects a candidate for every office which it to be filled at election.

Primaries.—The nomination of officers is regulated by the custom of parties and the laws of the State, the general outline of which in New York is as follows: In each town and city ward there is held before each election a meeting of the voters of each political party, which is known as a “caucus” or “primary.” At this meeting persons are nominated for the various town or ward

offices, and delegates are selected to attend county, district and school commissioner district conventions. At ward primaries, in years when city officers are to be elected, delegates are also chosen to attend the city convention of the party. These primaries are the most important of all party meetings, because here the whole nominating machinery is set in motion, and here only do the individuals of the party have the opportunity of discussing the questions at issue, or determining upon the views which the party will take upon these questions.

Conventions.—At city conventions the delegates from the various wards nominate persons for the city offices. At county conventions the delegates from the various towns and city wards nominate persons for the county offices. In every assembly district there is held each year a district convention composed of the delegates from the towns and wards of the district, which nominates a person for member of assembly, and if it is a year when state officers, or a state senator or representative or justice of the supreme court is to be elected, chooses separate sets of delegates to the state, congressional, senatorial and judicial conventions. In school commissioner districts the chief business of the convention is the nomination of a school commissioner. In counties, however, which are entitled to but one member of assembly or one school commissioner, the county convention performs the duties of the district convention or school commissioner convention. In each senatorial district there is held, whenever a senator is to be elected, a senatorial convention, composed of delegates from the assembly districts in such district, at which a person is nominated for

the office of state senator. But in a county which is entitled to one senator, such officer is nominated in the county convention. In like manner in each congressional district and judicial district, whenever such offices are to be filled, conventions composed of delegates from the assembly districts within such districts nominate persons for the offices of representative and justice of the supreme court. Each year in which the Governor, Lieutenant-Governor, Secretary of State, Comptroller, State Treasurer, Attorney General, State Surveyor and Engineer, and Judges of the Court of Appeals or any of them is to be elected, there is held a state convention, composed of delegates from the assembly districts of the State, at which persons are nominated for the offices to be filled.

General Regulations.—To prevent abuses the statutes provide definite rules to govern the conduct of these various party meetings, and also a method by which a specified number of persons can make independent nominations for offices in the State or any of its subdivisions. For the sake of regularity and publicity, it is also required that certificates of the nomination of candidates for offices to be filled by vote of the whole State shall be filed in the office of the Secretary of State ; of districts larger than a county in the offices of the Secretary of State and of the clerk of each county composing the district ; of town and village officers in the offices of their respective clerks ; and of all other officers in the office of the county clerk, a certain time before election, and that notice of such nominations be published for a specified period.

Presidential Nominations.—In every presidential year there are held party meetings distinct from those which

have been mentioned. In each town and ward of a city a primary is held to select delegates to an assembly district convention. Each district convention selects delegates to attend a congressional convention and a state convention. Each congressional convention selects two delegates to the national convention, and the state convention nominates the party's presidential electors and also chooses four "delegates-at-large," who are also sent to the national convention. At the national convention, delegates from all the states meet and nominate persons for President and Vice-President and prepare the party platform, which is a statement of the party's views upon national questions, and promises of action in case of success at election.

Qualifications of Voter.—While the machinery of nominations is left largely in the hands of the political parties, the State assumes entire control of elections. For the purpose of defining who has the right to vote the Constitution declares that:

Every *male citizen of the age of twenty-one years*, who shall have been a *citizen for ninety days*, and an *inhabitant of this State one year next preceding an election*, and for the last four months a *resident of the county*, and for the last thirty days a *resident of the election district* in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for

the return and canvass of their votes in the election districts in which they respectively reside. (Art. II., Sec. 1.)

But in city and village elections *resident taxpayers of both sexes* are entitled to vote on questions of special expenditures of public moneys, and generally for school officers.

Election Districts ; Residence.—For the sake of convenience in the conduct of elections and to prevent illegal practices every town or city ward which contains less than four hundred voters constitutes an election district, but towns and wards which contain more than that number are divided into sections containing, as near as may be, four hundred voters, and each such section then becomes an election district. What constitutes a *residence* of a voter within a county or election district is largely a matter of the intention of the voter, and no general definition can be given. It must, however, be continuous during the period required by the Constitution, and if a person within thirty days before election removes from one election district to another, although in the same town or ward, he loses his right to vote at that election, not only for the officers of the town or ward, but of the county, the district, the State and the nation. In the case of persons engaged in military or naval service, the Constitution removes this requirement of residence, and directs the Legislature to provide means for their voting, and another section contains the further exception that:

For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public ex-

pense or by charity; nor while confined in any public prison. (Art. II., Sec. 3.)

State Control.—The power of the State to place these conditions upon the voter is an indication that suffrage is not an *absolute right*, but rather in the nature of a *privilege*. Yet it is considered of such importance to its possessor that it is declared that:

No member of this State shall be disfranchised . . . unless by the law of the land, or the judgment of his peers. (Art. I, Sec. 1.)

On the other hand, the evils caused by an abuse of this privilege are so great that the Constitution declares that:

No person who shall receive, . . . or pay . . . or promise to pay . . . to another . . . any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, . . . or who shall make or become . . . interested in any bet or wager depending upon the result of any election, shall vote at such election; . . . The Legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of infamous crime. (Art. II., Sec. 2.)

In pursuance of this section, laws have been passed by which a person convicted of selling his vote or remaining away from election for pay is prohibited from voting for five years, and is punishable by imprisonment for not less than three months nor more than one year; and a person convicted of bribing a voter is punishable by like imprisonment, besides forfeiting the office to which he may have been elected and being rendered ineligible to hold any public office for five years; and persons convicted of infamous crimes and sentenced to a state prison or

penitentiary are forever deprived of suffrage, unless pardoned and restored in the right by the Governor.

Registry.—As a further protection against frauds, the Constitution provides that:

Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters ; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having five thousand inhabitants or more, according to the last preceding state enumeration of inhabitants, voters shall be registered upon personal application only : but voters not residing in such cities or villages shall not be required to apply in person at the first meeting of the officers having charge of the registry of voters. (Art. II. Sec. 4.)

All laws creating, regulating or affecting boards or officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representative of said parties respectively, as the Legislature may direct. Existing laws on this subject shall continue until the Legislature shall otherwise provide. This section shall not apply to town meetings, or to village elections. (Art. II. Sec. 6.)

Method of Registration.—To provide for registration, the Board of Elections in New York and the mayor in other cities annually appoint for each election district four inspectors, chosen equally from the two political parties which at the last election cast the greatest number of votes in the city. In towns, inspectors for each election

district are appointed in like manner by the town board once in two years. In every election district the four inspectors constitute the *board of registration*. In cities and villages having five thousand inhabitants or more the boards of registration hold four meetings—the fourth Friday and Saturday and the third Friday and Saturday before election, where are prepared lists of the voters of the district who personally appear before the inspectors. These lists include, among other things, the name, residence, age and citizenship of the voters, and *only those persons can vote whose names are enrolled upon such lists*. In towns, boards of registration hold but two meetings—the fourth and third Saturdays before election, at the first of which they prepare lists of voters from the register of the last general election, and at the second, only, do voters have to appear personally. If any mistakes occur in the lists of any election district, either in an omission to enroll a proper person or otherwise, a justice of the supreme court or a county judge may order a meeting of the board to be held on the second Saturday before election for the sole purpose of correcting the lists, but all lists must be completed at least ten days before election.

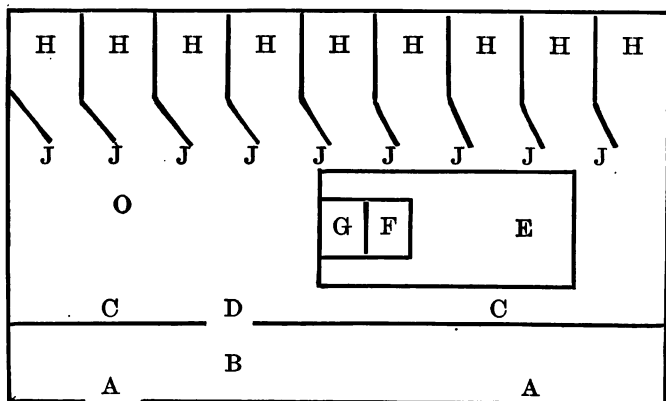
Officers of Election.—At a general election, which occurs the first Tuesday after the first Monday in November, the election officers in each election district are the four inspectors, two ballot-clerks and two poll-clerks. The ballot-clerks and poll-clerks are appointed in cities in the same manner as inspectors, and in towns are named by the inspectors. The Constitution declares that:

All elections by the citizens, except for such town officers as

may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved. (Art. II. Sec. 5.)

Election Machines ; Ballots.—The Legislature has passed laws authorizing the use at elections of voting machines, by which, by means of levers or other mechanism, the voter records his choice, but these machines differ so much in detail that they cannot be described here. In most election districts the voting is done by the so-called "Australian" ballot. The ballots are prepared by the county clerk in each county, and are in form similar to the sample facing this page, in which the nominees of each party are arranged in separate columns headed with the emblem chosen by the party to represent it. The portion of the ballot above the perforated line is called the stub, on the back of which is the number of the ballot.

The room where the election is held is arranged substantially as shown in the following diagram:



A A, Doors; B, Space reserved for waiting voters; C C, Rail

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separating waiting-space from voting-space; O, Voting-space; D, Gate in rail C C; E, Table for election officers; F, Box for stubs; G, Box for voted ballots; H, Booth in which the voter prepares his ballot for voting; J, Door to booth.

The polls are open continuously from six o'clock in the morning until five o'clock in the afternoon, and the voting is conducted substantially as follows: The voter presents himself at the table in the voting space and announces his name. If his name appears on the registry list, the poll-clerks enter his name and residence with other items in a regular poll-list, and he is given a ballot by the ballot clerks, the number on the stub of which is also entered on the poll-list opposite his name. With this ballot he enters a booth and closes the door, that he may prepare the ballot in secret. If he desires to vote a "straight-ticket," that is, for all the candidates of *one* party, he makes a cross (X) with a lead pencil in the circle beneath the party emblem. If he wishes to vote a "split-ticket," that is, to vote for candidates of different parties, he makes with the pencil a cross (X) in the little square at the left of the name of each person for whom he wishes to vote; or he marks the candidates of parties, other than *his own*, for whom he wishes to vote, and puts a cross beneath *his own* party's emblem, by which he votes for the candidates specially marked and *his own* party's candidates for all other offices. He must not put any other marks on the ballot, unless he wishes to vote for some person not named on the ballot, in which case he writes the name of such person in the blank column in the proper place. After he has prepared the ballot, he folds it and delivers it to

the inspector in charge of the ballot boxes, who tears off the stub, the number of which is recorded in the poll-list opposite the name of the voter. The inspector then places the stub in the box for stubs and the ballot in the box for voted ballots. While it is the intention that the ballot shall be secret, and but one person be allowed in a booth at the same time, yet in the case of blind men and some others a person under the direction of the election officers is permitted to enter the booth with the disabled person to prepare his ballot. Another provision permits a man to be "challenged," that is, stopped from voting, if it is thought that he is not entitled to vote. In such a case he cannot vote unless he takes an oath before the inspectors that he has the right. This is called "swearing in his vote." But a person who votes illegally at any election is liable to imprisonment for not less than two or more than five years.

Counting Votes.—After the polls are closed, the election officers count the votes and prepare three statements of the result, which show, among other things, the number which each candidate received. One of these statements is given to the supervisor of the town or city ward, one is deposited with the town clerk or city clerk, and the third is delivered to the county clerk. The county clerk tabulates the returns from the election districts, and on the Tuesday next after election, the board of supervisors of the county meet and "canvass," or review, the returns. In this work they are called the "Board of County Canvassers." Upon the completion of their work, the county clerk publishes a statement of the officers elected within the county, and prepares three statements of the

votes cast for officers of the State or divisions larger than the county, one of which he sends to the Governor, one to the Secretary of State and one to the Comptroller. In cities a similar canvass is made of the votes cast for city officers and the city clerk publishes the result. These statements of the county clerks are examined by the State Board of Canvassers before the fifteenth day of December, and upon completion of this work the Secretary of State presents certificates of election to the persons shown to be elected.

CHAPTER XII.

MISCELLANEOUS PROVISIONS.

State Property.—The money and property of the State belong to the whole State, and not to any portion or class of individuals, and to insure its use for common purposes the Constitution provides that neither the credit nor money of the State shall, in any manner, be given or loaned in aid of any corporation or private undertaking (Art. VII., Sec. 1; Art. VIII., Sec. 9); but, for the public good it is provided that the Legislature may make provision for the education of the blind, deaf and dumb, and may apply funds held by the State for educational purposes. (Art. VIII., Sec. 9.)

State Debts.—As a further safeguard the Legislature is also limited in its power to contract debts. The Constitution (Art. VII., Secs. 2 and 3) permits debts to be contracted by the State in case of failure to collect the taxes, or for unexpected expenses, to the amount of one million dollars, and to repel invasion, suppress insurrection or

defend the State in time of war; "but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever." No other debt can be contracted by the State except one authorized for some special work or object, such as the erection of public buildings, or repair of the canals. In such a case the Legislature must pass a bill which states the object for which the money is to be raised, and provides for the collection of an annual tax sufficient to pay the interest on the debt as it falls due, and the principal within eighteen years. Then the law so passed must be approved by the voters of the whole State at the next general election, otherwise it shall be of no effect (Art. VII., Sec. 4.)

Forest Preserve; Canals.—Other important sections of the Constitution regarding state property are those relating to the Forest Preserve (Art. VII., Sec. 7) and the Canals of the State (Art. VII., Secs. 8-10).

Other Important Provisions.—Among the other provisions of the Constitution, which are so clear as to require no comment, but are of sufficient importance to warrant careful study, are those relating to Bribery and Corruption (Art. XIII., Secs. 2-4), Free Passes to Public Officers (Art. XIII., Secs. 5 and 6), Amendments (Art. XIV. Sec. 1), and Constitutional Conventions (Art. XIV., Secs. 2 and 3).

CHAPTER XIII.

RIGHTS AND DUTIES OF AMERICAN CITIZENS.

The study of federal, state and local institutions in the United States has brought out many of the rights of a citizen and the duties which he owes to the government under which he lives, and it is fitting in conclusion to briefly summarize these, in order that they may be more clearly understood.

Rights.—The rights to which a citizen is justly entitled are included under two heads—his right to have a voice in the government, and his right to be protected. The former right is granted to an individual, when he is permitted under reasonable limitations to vote for public officers and to hold public office. It is the duty of the government to protect its citizens in the enjoyment of their inherent rights of life, liberty, reputation and property. The bills of rights in the federal and state constitutions compel the respective governments to secure to the individual these personal rights. This right of protection is not only his within the United States, but follows him wherever he goes, and if his natural rights are infringed in a foreign country he may justly require the full diplomatic and military power of the nation to protect him in them.

Duties ; Support of Government.—The duties of a citizen to his government may also be classified under two heads—to support the government and to obey its laws. In support of the government a citizen is bound to contribute his share to the maintenance of its different

branches, and this he does by the payment of taxes, either directly or indirectly. If he fail to perform this duty the government compels him to do so, and in extraordinary cases he may be required to surrender his property for public uses. A citizen should further support the government by exercising his political rights. This he does by taking part in party primaries and by voting on election day. The chief danger to a republic and republican institutions lies in the primaries and elections being corrupted by dishonest and unscrupulous men for their own purposes and benefit. It is, therefore, the imperative duty of every citizen to attend the primaries of his party, to vote honestly and intelligently at elections, and to do all that he is able to secure the nomination and election of trustworthy and competent men to public office. Whenever the national or state government is menaced by foreign invasion or by insurrection at home it is the duty of a citizen to take up arms in its defense if his services are required and he is competent by reason of age and physical condition; and in case he fails to volunteer, the national government may, if necessary, compel him to serve (see Book I., pages 6 and 102), while, as we have seen, every able-bodied citizen of New York is, by its Constitution, a member of its militia and liable to be called upon at any time for active service. Furthermore, it is the duty of a citizen, when required by a sheriff, to serve upon the *posse comitatus* and aid him in preserving the peace or securing a criminal, and so, too, a citizen must assist a police officer, when the latter requests, in making an arrest or preventing violations of law. Of much the same character is the duty of a citizen to serve

as a juror in the federal and state courts and act impartially in the trial of cases, for the jury system is justly considered one of the strongest safeguards of personal rights and liberties.

Obedience.—The obligation of a citizen to obey the laws is so evident as to need no discussion. It is even more important than the duty to support the government, for without obedience to law society would be in a constant state of disorder and anarchy. The police powers of the national, state and local governments which vest in the executive branches are constantly employed to compel obedience, while the judicial branches impose upon those who are disobedient the penalties fixed by law.

Summary.—There are then reciprocal duties imposed upon the government and upon its citizens, which each may justly demand of the other, and which are essential to the stability of society and the welfare of the individual. In brief, every citizen must support the government and obey its laws; and the government must permit every citizen to have a voice in public affairs and protect him in his inherent rights. Upon these mutual obligations of the state and the individual rest the entire fabric of our republican institutions.

APPENDIX.

THE CONSTITUTION OF THE STATE OF NEW YORK.

WE, THE PEOPLE of the State of New York, grateful to Almighty God for our Freedom, in order to secure its blessings, DO ESTABLISH THIS CONSTITUTION.

ARTICLE I.

Section 1. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

§ 2. The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.

§ 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

§ 4. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

§ 5. Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

§ 6. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service, and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace, and in cases of petit larceny, under the regulation of the Legislature), unless on presentment or indictment of a grand jury, and in any trial in any court

whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

§ 7. When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damage to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited. General laws may be passed permitting the owners or occupants of agricultural lands to construct and maintain for the drainage thereof, necessary drains, ditches and dykes upon the lands of others, under proper restrictions and with just compensation, but no special laws shall be enacted for such purposes.

§ 8. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

§ 9. No law shall be passed abridging the right of the people peaceably to assemble and to petition the government, or any department thereof; nor shall any divorce be granted otherwise than by due judicial proceedings; nor shall any lottery or the sale of lottery tickets, pool-selling, book-making, or any other kind of gambling hereafter be authorized or allowed within this State; and the Legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section.

§ 10. The people of this State, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail, from a defect of heirs, shall revert, or escheat to the people.

§ 11. All feudal tenures of every description, with all their incidents, are declared to be abolished, saving however, all rents and services cer-

tain which at any time heretofore have been lawfully created or reserved.

§ 12. All lands within this State are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates.

§ 13. No lease or grant of agricultural land, for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

§ 14. All fines, quarter-sales, or other like restraints upon alienation, reserved in any grant of land hereafter to be made, shall be void.

§ 15. No purchase or contract for the sale of lands in this State, made since the fourteenth day of October, one thousand seven hundred and seventy-five; or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority, and with the consent of the Legislature.

§ 16. Such parts of the common law, and of the acts of the Legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the Congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered; and such acts of the Legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the Legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this Constitution, are hereby abrogated.

§ 17. All grants of land within this State, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this Constitution shall affect any grants of land within this State, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority; or shall impair the obligation of any debts, contracted by the State or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

§ 18. The right of action now existing to recover damages for injuries

resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

ARTICLE II.

Section 1. Every male citizen of the age of twenty-one years, who shall have been a citizen for ninety days, and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election district in which they respectively reside.

§ 2. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The Legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

§ 3. For the purpose of voting, no person shall be deemed to have

gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison.

§ 4. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having five thousand inhabitants or more, according to the last preceding state enumeration of inhabitants, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters.

§ 5. All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved.

§ 6. All laws creating, regulating or affecting boards of officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the Legislature may direct. Existing laws on this subject shall continue until the Legislature shall otherwise provide. This section shall not apply to town meetings, or to village elections.

ARTICLE III.

Section 1. The legislative power of this State shall be vested in the Senate and Assembly.

§ 2. The Senate shall consist of fifty members, except as hereinafter provided. The senators elected in the year one thousand eight hundred

and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years. The Assembly shall consist of one hundred and fifty members, who shall be chosen for one year.

§ 3. The State shall be divided into fifty districts to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to fifty, inclusive.

District number one (1) shall consist of the counties of Suffolk and Richmond.

District number two (2) shall consist of the county of Queens.

District number three (3) shall consist of that part of the county of Kings comprising the first, second, third, fourth, fifth and sixth wards of the city of Brooklyn.

District number four (4) shall consist of that part of the county of Kings comprising the seventh, thirteenth, nineteenth and twenty-first wards of the city of Brooklyn.

District number five (5) shall consist of that part of the county of Kings comprising the eighth, tenth, twelfth and thirtieth wards of the city of Brooklyn, and the ward of the city of Brooklyn which was formerly the town of Gravesend.

District number six (6) shall consist of that part of the county of Kings comprising the ninth, eleventh, twentieth and twenty-second wards of the city of Brooklyn.

District number seven (7) shall consist of that part of the county of Kings comprising the fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn.

District number eight (8) shall consist of that part of the county of Kings comprising the twenty-third, twenty-fourth, twenty-fifth and twenty-ninth wards of the city of Brooklyn, and the town of Flatlands.

District number nine (9) shall consist of that part of the county of Kings comprising the eighteenth, twenty-sixth, twenty-seventh and twenty-eighth wards of the city of Brooklyn.

District number ten (10) shall consist of that part of the county of New York within and bounded by a line beginning at Canal street and the Hudson river, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Canal street, the Bowery, Division street, Grand street, and Jackson street, to the East river and thence around the southern end of Manhattan island, to the place of beginning, and also Governor's, Bedloe's and Ellis islands.

District number eleven (11) shall consist of that part of the county of New York lying north of district number ten, and within and bounded

by a line beginning at the junction of Broadway and Canal street, and running thence along Broadway, Fourth street, the Bowery and Third avenue, St. Mark's place, Avenue A, Seventh street, Avenue B, Clinton street, Rivington street, Norfolk street, Division street, Bowery and Canal street, to the place of beginning.

District number twelve (12) shall consist of that part of the county of New York lying north of districts numbers ten and eleven, and within and bounded by a line beginning at Jackson street and the East river, and running thence through Jackson street, Grand street, Division street, Norfolk street, Rivington street, Clinton street, Avenue B, Seventh street, Avenue A, St. Mark's place, Third avenue, East Fourteenth street to the East river, and along the East river, to the place of beginning.

District number thirteen (13) shall consist of that part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the Hudson river at the foot of Canal street, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Fourth street, the Bowery and Third avenue, Fourteenth street, Sixth avenue, West Fifteenth street, Seventh avenue, West Nineteenth street, Eighth avenue, West Twentieth street, and the Hudson river, to the place of beginning.

District number fourteen (14) shall consist of that part of the county of New York lying north of districts numbers twelve and thirteen, and within and bounded by a line beginning at East Fourteenth street and the East river, and running thence along East Fourteenth street, Irving place, East Nineteenth street, Third avenue, East Twenty-third street, Lexington avenue, East Fifty-third street, Third avenue, East Fifty-second street, and the East river, to the place of beginning.

District number fifteen (15) shall consist of that part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at the junction of West Fourteenth street and Sixth avenue, and running thence along Sixth avenue, West Fifteenth street, Seventh avenue, West Fortieth street, Eighth avenue, and the transverse road across Central park at Ninety-seventh street, Fifth avenue, East ninety-sixth street, Lexington avenue, East Twenty-third street, Third avenue, East Nineteenth street, Irving place and Fourteenth street, to the place of beginning.

District number sixteen (16) shall consist of that part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at Seventh avenue and West Nineteenth

street, and running thence along West Nineteenth street, the Hudson river, West Forty-sixth street, Tenth avenue, Eighth avenue, West Fortieth street and Seventh avenue, to the place of beginning.

District number seventeen (17) shall consist of that part of the county of New York lying north of district number sixteen, and within and bounded by a line beginning at the junction of Eighth avenue and West Forty-third street, and running thence along West Forty-third street, Tenth avenue, West Forty-sixth street, the Hudson river, West Eighty-ninth street, Tenth or Amsterdam avenue, West Eighty-sixth street, Ninth or Columbus avenue, West Eighty-first street and Eighth avenue, to the place of beginning.

District number eighteen (18) shall consist of that part of the county of New York lying north of district number fourteen, and within and bounded by a line beginning at the junction of East Fifty-second street and the East river, and running thence along East Fifty-second street, Third avenue, East Fifty-third street, Lexington avenue, East Eighty-fourth street, Second avenue, East Eighty-third street and the East river, to the place of beginning; and also Blackwell's island.

District number nineteen (19) shall consist of that part of the county of New York lying north of district number seventeen, and within and bounded by a line beginning at West Eighty-ninth street and the Hudson river, and running thence along the Hudson river and Spuyten Duyvil creek around the northern end of Manhattan island; thence southerly along the Harlem river to the north end of Fifth avenue; thence along Fifth avenue, East One Hundred and Twenty-ninth street, Fourth or Park avenue, East One Hundred and Tenth street, Fifth avenue, the transverse road across Central park at Ninety-seventh street, Eighth avenue, West Eighty-first street, Ninth or Columbus avenue, West Eighty-sixth street, Tenth or Amsterdam avenue and West Eighty-ninth street, to the place of beginning.

District number twenty (20) shall consist of that part of the county of New York lying north of districts numbers eighteen and fifteen, and within and bounded by a line beginning at East Eighty-third street and the East river, running thence through East Eighty-third street, Second avenue, East Eighty-fourth street, Lexington avenue, East Ninety-sixth street, Fifth avenue, East One hundred and Tenth street, Fourth or Park avenue, East One Hundred and Nineteenth street to the Harlem river, and along the Harlem and East rivers to the place of beginning; and also Randall's island and Ward's island.

All of the above districts in the county of New York bounded upon

or along the boundary waters of the county, shall be deemed to extend to the county line.

District number twenty-one (21) shall consist of that part of the county of New York lying north of districts numbers nineteen and twenty, within and bounded by a line beginning at East One hundred and Nineteenth street and the Harlem river, and running thence along East One Hundred and Nineteenth street, Fourth or Park avenue, One Hundred and Twenty-ninth street, Fifth avenue and the Harlem river, to the place of beginning; and all that part of the county of New York not hereinbefore described.

District number twenty-two (22) shall consist of the county of Westchester.

District number twenty-three (23) shall consist of the counties of Orange and Rockland.

District number twenty-four (24) shall consist of the counties of Dutchess, Columbia and Putnam.

District number twenty-five (25) shall consist of the counties of Ulster and Greene.

District number twenty-six (26) shall consist of the counties of Delaware, Chenango and Sullivan.

District number twenty-seven (27) shall consist of the counties of Montgomery, Fulton, Hamilton and Schoharie.

District number twenty-eight (28) shall consist of the counties of Saratoga, Schenectady and Washington.

District number twenty-nine (29) shall consist of the county of Albany.

District number thirty (30) shall consist of the county of Rensselaer.

District number thirty-one (31) shall consist of the counties of Clinton, Essex and Warren.

District number thirty-two (32) shall consist of the counties of St. Lawrence and Franklin.

District number thirty-three (33) shall consist of the counties of Otsego and Herkimer.

District number thirty-four (34) shall consist of the county of Oneida.

District number thirty-five (35) shall consist of the counties of Jefferson and Lewis.

District number thirty-six (36) shall consist of the county of Onondaga.

District number thirty-seven (37) shall consist of the counties of Oswego and Madison.

District number thirty-eight (38) shall consist of the counties of Broome, Cortland and Tioga.

District number thirty-nine (39) shall consist of the counties of Cayuga and Seneca.

District number forty (40) shall consist of the counties of Chemung, Tompkins and Schuyler.

District number forty-one (41) shall consist of the counties of Steuben and Yates.

District number forty-two (42) shall consist of the counties of Ontario and Wayne.

District number forty-three (43) shall consist of that part of the county of Monroe comprising the towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush and Webster, and the fourth, sixth, seventh, eighth, twelfth, thirteenth, fourteenth, sixteenth, seventeenth and eighteenth wards of the city of Rochester, as at present constituted.

District number forty-four (44) shall consist of that part of the county of Monroe comprising the towns of Chili, Clarkson, Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden and Wheatland, and the first, second, third, fifth, ninth, tenth, eleventh, fifteenth, nineteenth and twentieth wards of the city of Rochester, as at present constituted.

District number forty-five (45) shall consist of the counties of Niagara, Genesee and Orleans.

District number forty-six (46) shall consist of the counties of Allegany, Livingston and Wyoming.

District number forty-seven (47) shall consist of that part of the county of Erie comprising the first, second, third, sixth, fifteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth wards of the city of Buffalo, as at present constituted.

District number forty-eight (48) shall consist of that part of the county of Erie comprising the fourth, fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and sixteenth wards of the city of Buffalo as at present constituted.

District number forty-nine (49) shall consist of that part of the county of Erie comprising the seventeenth, eighteenth and twenty-fifth wards of the city of Buffalo, as at present constituted; and all the remainder of the said county of Erie not hereinbefore described.

District number fifty (50) shall consist of the counties of Chautauqua and Cattaraugus.

§ 4. An enumeration of the inhabitants of the State shall be taken under the direction of the Secretary of State, during the months of May and June, in the year one thousand nine hundred and five, and in the same months every tenth year thereafter; and the said districts shall

be so altered by the Legislature at the first regular session after the return of every enumeration, that each senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory, and no county shall be divided in the formation of a senate district except to make two or more senate districts wholly in such county. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of senate districts; nor shall any district contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein adjoining such district. Counties, towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.

No county shall have four or more senators unless it shall have a full ratio for each senator. No county shall have more than one-third of all the senators; and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the senators.

The ratio for apportioning senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty, and the senate shall always be composed of fifty members, except that if any county having three or more senators at the time of any apportionment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county in addition to the fifty senators, and the whole number of senators shall be increased to that extent.

§ 5. The members of the Assembly shall be chosen by single districts and shall be apportioned by the Legislature at the first regular session after the return of every enumeration among the several counties of the State, as nearly as may be according to the number of their respective inhabitants, excluding aliens. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of Assembly, and no county shall hereafter be erected unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, entitle it to a member. But the Legislature may abolish the said county of Hamilton and annex the territory thereof to some other county or counties.

The quotient obtained by dividing the whole number of inhabitants of the State, excluding aliens, by the number of members of assembly, shall be the ratio for apportionment, which shall be made as follows: One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one-half over. Two members shall be apportioned to every other county. The remaining members of assembly shall be apportioned to the counties having more than two ratios according to the number of inhabitants, excluding aliens. Members apportioned on remainders shall be apportioned to the counties having the highest remainders in the order thereof respectively. No county shall have more members of assembly than a county having a greater number of inhabitants, excluding aliens.

Until after the next enumeration, members of the Assembly shall be apportioned to the several counties as follows: Albany county, four members; Allegany county, one member; Broome county, two members; Cattaraugus county, two members; Cayuga county, two members; Chautauqua county, two members; Chemung county, one member; Chenango county, one member; Clinton county, one member; Columbia county, one member; Cortland county, one member; Delaware county, one member; Dutchess county, two members; Erie county, eight members; Essex county, one member; Franklin county, one member; Fulton and Hamilton counties, one member; Genesee county, one member; Greene county, one member; Herkimer county, one member; Jefferson county, two members; Kings county, twenty-one members; Lewis county, one member; Livingston county, one member; Madison county, one member; Monroe county, four members; Montgomery county, one member; New York county, thirty-five members; Niagara county, two members; Oneida county, three members; Onondaga county, four members; Ontario county, one member; Orange county, two members; Orleans county, one member; Oswego county, two members; Otsego county, one member; Putnam county, one member; Queens county, three members; Rensselaer county, three members; Richmond county, one member; Rockland county, one member; St. Lawrence county, two members; Saratoga county, one member; Schenectady county, one member; Schoharie county, one member; Schuyler county, one member; Seneca county, one member; Steuben county, two members; Suffolk county, two members; Sullivan county, one member; Tioga county, one member; Tompkins county, one member; Ulster county, two members; Warren county, one member; Washington county, one member; Wayne county, one member;

Westchester county, three members; Wyoming county, one member, and Yates county, one member.

In any county entitled to more than one member, the board of supervisors, and in any city embracing an entire county and having no board of supervisors, the common council, or if there be none, the body exercising the powers of a common council, shall assemble on the second Tuesday of June, one thousand eight hundred and ninety-five, and at such times as the Legislature making an apportionment shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of convenient and contiguous territory in as compact form as practicable, each of which shall be wholly within a senate district formed under the same apportionment, equal to the number of members of assembly to which such county shall be entitled, and shall cause to be filed in the office of the Secretary of State and of the clerk of such county, a description of such districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, according to the last preceding enumeration; and such apportionment and districts shall remain unaltered until another enumeration shall be made, as herein provided; but said division of the city of Brooklyn and the county of Kings to be made on the second Tuesday of June, one thousand eight hundred and ninety-five, shall be made by the common council of the said city and the board of supervisors of said county, assembled in joint session. In counties having more than one senate district, the same number of assembly districts shall be put in each senate district, unless the assembly districts cannot be evenly divided among the senate districts of any county, in which case one more assembly district shall be put in the senate district in such county having the largest, or one less assembly district shall be put in the senate district in such county having the smallest number of inhabitants, excluding aliens, as the case may require. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts, nor shall any district contain a greater excess in population over an adjoining district in the same senate district, than the population of a town or block therein adjoining such assembly district. Towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens; but in the division of cities under the first apportionment, regard shall be had to the number of inhabitants, excluding aliens, of the election districts according to the state enumeration of one thousand eight hundred and ninety-two, so far as may be, instead

of blocks. Nothing in this section shall prevent the division, at any time, of counties and towns, and the erection of new towns by the Legislature.

An apportionment by the Legislature, or other body, shall be subject to review by the Supreme Court, at the suit of any citizen, under such reasonable regulations as the Legislature may prescribe; and any court before which a cause may be pending involving an apportionment, shall give precedence thereto over all other causes and proceedings, and if said court be not in session it shall convene promptly for the disposition of the same.

§ 6. Each member of the Legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting, once in each session, on the most usual route. Senators, when the Senate alone is convened in extraordinary session, or when serving as members of the Court for the Trial of Impeachments, and such members of the Assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.

§ 7. No member of the Legislature shall receive any civil appointment within this State, or the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, or from any city government, during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void.

§ 8. No person shall be eligible to the Legislature who, at the time of his election, is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or an officer under any city government. And if any person shall, after his election as a member of the Legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

§ 9. The elections of senators and members of assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the Legislature.

§ 10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own mem-

bers; shall choose its own officers; and the Senate shall choose a temporary president to preside in case of the absence or impeachment of the Lieutenant-Governor, or when he shall refuse to act as president, or shall act as Governor.

§ 11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

§ 12. For any speech or debate in either house of the Legislature, the members shall not be questioned in any other place.

§ 13. Any bill may originate in either house of the Legislature, and all bills passed by one house may be amended by the other.

§ 14. The enacting clause of all bills shall be "The People of the State of New York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

§ 15. No bill shall be passed or become a law unless it shall have been printed and upon the desks of the members, in its final form, at least three calendar legislative days prior to its final passage, unless the Governor, or the acting Governor, shall have certified to the necessity of its immediate passage, under his hand and the seal of the State; nor shall any bill be passed or become a law, except by the assent of a majority of the members elected to each branch of the Legislature; and upon the last reading of a bill, no amendment thereof shall be allowed, and the question upon its final passage shall be taken immediately thereafter, and the yeas and nays entered on the journal.

§ 16. No private or local bill, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.

§ 17. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or part thereof, shall be applicable, except by inserting it in such act.

§ 18. The Legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning or impaneling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentages or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Granting to any person, association, firm or corporation, an exemption from taxation on real or personal property.

Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the State.

The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment, may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of, that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the Appellate Division of the Supreme Court, in the department in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

§ 19. The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law.

§ 20. The assent of two-thirds of the members elected to each branch of the Legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

§ 21. No money shall ever be paid out of the treasury of this State, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be

made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

§ 22. No provision or enactment shall be embraced in the annual appropriation or supply bill, unless it relates specifically to some particular appropriation in the bill; and any such provision or enactment shall be limited in its operation to such appropriation.

§ 23. Sections seventeen and eighteen of this article shall not apply to any bill, or the amendments to any bill, which shall be reported to the Legislature by commissioners who have been appointed pursuant to law to revise the statutes.

§ 24. Every law which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

§ 25. On the final passage, in either house of the Legislature, of any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges or commutes any claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

§ 26. There shall be in each county, except in a county wholly included in a city, a board of supervisors, to be composed of such members and elected in such manner and for such period as is or may be provided by law. In a city which includes an entire county, or two or more entire counties, the powers and duties of a board of supervisors may be devolved upon the municipal assembly, common council, board of aldermen or other legislative body of the city.

§ 27. The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the Legislature may, from time to time, deem expedient.

§ 28. The Legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor.

§ 29. The Legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the

first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product or the profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State, or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

ARTICLE IV.

Section 1. The executive power shall be vested in a Governor, who shall hold his office for two years; a Lieutenant-Governor shall be chosen at the same time, and for the same term. The Governor and Lieutenant-Governor elected next preceding the time when this section shall take effect, shall hold office until and including the thirty-first day of December, one thousand eight hundred and ninety-six, and their successors shall be chosen at the general election in that year.

§ 2. No person shall be eligible to the office of Governor or Lieutenant-Governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceding his election a resident of this State.

§ 3. The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor, the two houses of the Legislature at its next annual session shall forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor or Lieutenant-Governor.

§ 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State. He shall have power to convene the Legislature, or the Senate only, on extraordinary occasions. At extraordinary sessions no subject shall be acted upon, except such as the Governor may recommend for consideration. He shall communicate by message to the Legislature at every session the condition of the State, and recommend such matters to it as he shall judge expedient. He shall

transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws are faithfully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.

§ 5. The Governor shall have the power to grant reprieves, commutation and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

§ 6. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State, in time of war, at the head of a military force thereof, he shall continue Commander-in-Chief of all the military forces of the State.

§ 7. The Lieutenant-Governor shall possess the same qualifications of eligibility for office as the Governor. He shall be president of the Senate, but shall have only a casting vote therein. If during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor until the vacancy be filled or the disability shall cease; and if the President of the Senate for any of the above causes shall become incapable of performing the duties pertaining to the office of Governor, the Speaker of the Assembly shall act as Governor until the vacancy be filled or the disability shall cease.

§ 8. The Lieutenant-Governor shall receive for his services an annual salary of five thousand dollars, and shall not receive or be entitled to

any other compensation, fee or perquisite, for any duty or service he may be required to perform by the Constitution or by law.

§9. Every bill which shall have passed the Senate and Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the Governor. In all such cases, the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall become a law after the final adjournment of the Legislature, unless approved by the Governor within thirty days after such adjournment. If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If on reconsideration one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in relation to bills not approved by the Governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

ARTICLE V.

Section 1. The Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be chosen at a general

election, at the times and places of electing the Governor and Lieutenant-Governor, and shall hold their offices for two years, except as provided in section two of this article. Each of the officers in this article named, excepting the Speaker of the Assembly, shall, at stated times during his continuance in office, receive for his services a compensation which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive to his use any fees or perquisites of office or other compensation. No person shall be elected to the office of State Engineer and Surveyor who is not a practical civil engineer.

§ 2. The first election of the Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor, pursuant to this article, shall be held in the year one thousand eight hundred and ninety-five, and their terms of office shall begin on the first day of January following, and shall be for three years. At the general election in the year one thousand eight hundred and ninety-eight, and every two years thereafter, their successors shall be chosen for the term of two years.

§ 3. A Superintendent of Public Works shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office until the end of the term of the Governor by whom he was nominated, and until his successor is appointed and qualified. He shall receive a compensation to be fixed by law. He shall be required by law to give security for the faithful execution of his office before entering upon the duties thereof. He shall be charged with the execution of all laws relating to the repair and navigation of the canals, and also of those relating to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction or improvement shall be confided to the State Engineer and Surveyor; subject to the control of the Legislature, he shall make the rules and regulations for the navigation or use of the canals. He may be suspended or removed from office by the Governor, whenever, in his judgment, the public interest shall so require; but in case of the removal of such Superintendent of Public Works from office, the Governor shall file with the Secretary of State a statement of the cause of such removal, and shall report such removal and the cause thereof to the Legislature at its next session. The Superintendent of Public Works shall appoint not more than three assistant superintendents, whose duties shall be prescribed by him, subject to modification by the Legislature, and who shall receive for their services a compensation to be fixed by law. They shall hold their office for three years, sub-

The quotient obtained by dividing the whole number of inhabitants of the State, excluding aliens, by the number of members of assembly, shall be the ratio for apportionment, which shall be made as follows: One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one-half over. Two members shall be apportioned to every other county. The remaining members of assembly shall be apportioned to the counties having more than two ratios according to the number of inhabitants, excluding aliens. Members apportioned on remainders shall be apportioned to the counties having the highest remainders in the order thereof respectively. No county shall have more members of assembly than a county having a greater number of inhabitants, excluding aliens.

Until after the next enumeration, members of the Assembly shall be apportioned to the several counties as follows: Albany county, four members; Allegany county, one member; Broome county, two members; Cattaraugus county, two members; Cayuga county, two members; Chautauqua county, two members; Chemung county, one member; Chenango county, one member; Clinton county, one member; Columbia county, one member; Cortland county, one member; Delaware county, one member; Dutchess county, two members; Erie county, eight members; Essex county, one member; Franklin county, one member; Fulton and Hamilton counties, one member; Genesee county, one member; Greene county, one member; Herkimer county, one member; Jefferson county, two members; Kings county, twenty-one members; Lewis county, one member; Livingston county, one member; Madison county, one member; Monroe county, four members; Montgomery county, one member; New York county, thirty-five members; Niagara county, two members; Oneida county, three members; Onondaga county, four members; Ontario county, one member; Orange county, two members; Orleans county, one member; Oswego county, two members; Otsego county, one member; Putnam county, one member; Queens county, three members; Rensselaer county, three members; Richmond county, one member; Rockland county, one member; St. Lawrence county, two members; Saratoga county, one member; Schenectady county, one member; Schoharie county, one member; Schuyler county, one member; Seneca county, one member; Steuben county, two members; Suffolk county, two members; Sullivan county, one member; Tioga county, one member; Tompkins county, one member; Ulster county, two members; Warren county, one member; Washington county, one member; Wayne county, one member;

Westchester county, three members; Wyoming county, one member, and Yates county, one member.

In any county entitled to more than one member, the board of supervisors, and in any city embracing an entire county and having no board of supervisors, the common council, or if there be none, the body exercising the powers of a common council, shall assemble on the second Tuesday of June, one thousand eight hundred and ninety-five, and at such times as the Legislature making an apportionment shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of convenient and contiguous territory in as compact form as practicable, each of which shall be wholly within a senate district formed under the same apportionment, equal to the number of members of assembly to which such county shall be entitled, and shall cause to be filed in the office of the Secretary of State and of the clerk of such county, a description of such districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, according to the last preceding enumeration; and such apportionment and districts shall remain unaltered until another enumeration shall be made, as herein provided; but said division of the city of Brooklyn and the county of Kings to be made on the second Tuesday of June, one thousand eight hundred and ninety-five, shall be made by the common council of the said city and the board of supervisors of said county, assembled in joint session. In counties having more than one senate district, the same number of assembly districts shall be put in each senate district, unless the assembly districts cannot be evenly divided among the senate districts of any county, in which case one more assembly district shall be put in the senate district in such county having the largest, or one less assembly district shall be put in the senate district in such county having the smallest number of inhabitants, excluding aliens, as the case may require. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts, nor shall any district contain a greater excess in population over an adjoining district in the same senate district, than the population of a town or block therein adjoining such assembly district. Towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens; but in the division of cities under the first apportionment, regard shall be had to the number of inhabitants, excluding aliens, of the election districts according to the state enumeration of one thousand eight hundred and ninety-two, so far as may be, instead

of blocks. Nothing in this section shall prevent the division, at any time, of counties and towns, and the erection of new towns by the Legislature.

An apportionment by the Legislature, or other body, shall be subject to review by the Supreme Court, at the suit of any citizen, under such reasonable regulations as the Legislature may prescribe; and any court before which a cause may be pending involving an apportionment, shall give precedence thereto over all other causes and proceedings, and if said court be not in session it shall convene promptly for the disposition of the same.

§ 6. Each member of the Legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting, once in each session, on the most usual route. Senators, when the Senate alone is convened in extraordinary session, or when serving as members of the Court for the Trial of Impeachments, and such members of the Assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.

§ 7. No member of the Legislature shall receive any civil appointment within this State, or the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, or from any city government, during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void.

§ 8. No person shall be eligible to the Legislature who, at the time of his election, is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or an officer under any city government. And if any person shall, after his election as a member of the Legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

§ 9. The elections of senators and members of assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the Legislature.

§ 10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own mem-

bers; shall choose its own officers; and the Senate shall choose a temporary president to preside in case of the absence or impeachment of the Lieutenant-Governor, or when he shall refuse to act as president, or shall act as Governor.

§ 11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

§ 12. For any speech or debate in either house of the Legislature, the members shall not be questioned in any other place.

§ 13. Any bill may originate in either house of the Legislature, and all bills passed by one house may be amended by the other.

§ 14. The enacting clause of all bills shall be "The People of the State of New York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

§ 15. No bill shall be passed or become a law unless it shall have been printed and upon the desks of the members, in its final form, at least three calendar legislative days prior to its final passage, unless the Governor, or the acting Governor, shall have certified to the necessity of its immediate passage, under his hand and the seal of the State; nor shall any bill be passed or become a law, except by the assent of a majority of the members elected to each branch of the Legislature; and upon the last reading of a bill, no amendment thereof shall be allowed, and the question upon its final passage shall be taken immediately thereafter, and the yeas and nays entered on the journal.

§ 16. No private or local bill, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.

§ 17. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or part thereof, shall be applicable, except by inserting it in such act.

§ 18. The Legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning or impaneling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentages or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Granting to any person, association, firm or corporation, an exemption from taxation on real or personal property.

Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the State.

The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment, may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of, that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the Appellate Division of the Supreme Court, in the department in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

§ 19. The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law.

§ 20. The assent of two-thirds of the members elected to each branch of the Legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

§ 21. No money shall ever be paid out of the treasury of this State, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be

made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

§ 22. No provision or enactment shall be embraced in the annual appropriation or supply bill, unless it relates specifically to some particular appropriation in the bill; and any such provision or enactment shall be limited in its operation to such appropriation.

§ 23. Sections seventeen and eighteen of this article shall not apply to any bill, or the amendments to any bill, which shall be reported to the Legislature by commissioners who have been appointed pursuant to law to revise the statutes.

§ 24. Every law which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

§ 25. On the final passage, in either house of the Legislature, of any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges or commutes any claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

§ 26. There shall be in each county, except in a county wholly included in a city, a board of supervisors, to be composed of such members and elected in such manner and for such period as is or may be provided by law. In a city which includes an entire county, or two or more entire counties, the powers and duties of a board of supervisors may be devolved upon the municipal assembly, common council, board of aldermen or other legislative body of the city.

§ 27. The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the Legislature may, from time to time, deem expedient.

§ 28. The Legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor.

§ 29. The Legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the

§ 10. The Judges of the Court of Appeals and the Justices of the Supreme Court shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the Legislature or the people, shall be void.

§ 11. Judges of the Court of Appeals and Justices of the Supreme Court may be removed by concurrent resolution of both houses of the Legislature, if two-thirds of all the members elected to each house concur therein. All other judicial officers, except justices of the peace and judges or justices of inferior courts not of record, may be removed by the Senate, on the recommendation of the Governor, if two-thirds of all the members elected to the Senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statement of the cause alleged, and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal.

§ 12. The Judges and Justices hereinbefore mentioned shall receive for their services a compensation established by law, which shall not be increased or diminished during their official terms, except as provided in section five of this article. No person shall hold the office of Judge or Justice of any court longer than until and including the last day of December next after he shall be seventy years of age. No judge or justice elected after the first day of January, one thousand eight hundred and ninety-four, shall be entitled to receive any compensation after the last day of December next after he shall be seventy years of age; but the compensation of every Judge of the Court of Appeals or Justice of the Supreme Court elected prior to the first day of January, one thousand eight hundred and ninety-four, whose term of office has been, or whose present term of office shall be, so abridged, and who shall have served as such Judge or Justice ten years or more, shall be continued during the remainder of the term for which he was elected; but any such Judge or Justice may, with his consent, be assigned by the Governor, from time to time, to any duty in the Supreme Court while his compensation is so continued.

§ 13. The Assembly shall have the power of impeachment, by a vote of a majority of all the members elected. The court for the trial of impeachments shall be composed of the President of the Senate, the Senators, or the major part of them, and the Judges of the Court of Appeals, or the major part of them. On the trial of an impeachment against the Governor or Lieutenant-Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer

shall exercise his office, after articles of impeachment against him shall have been preferred to the Senate, until he shall have been acquitted. Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust or profit under this State; but the party impeached shall be liable to indictment and punishment according to law.

§ 14. The existing County Courts are continued, and the Judges thereof now in office shall hold their offices until the expiration of their respective terms. In the county of Kings there shall be two County Judges and the additional County Judge shall be chosen at the next general election held after the adoption of this article. The successors of the several County Judges shall be chosen by the electors of the counties for the term of six years. County Courts shall have the powers and jurisdiction they now possess, and also original jurisdiction in actions for the recovery of money only, where the defendants reside in the county, and in which the complaint demands judgment for a sum not exceeding two thousand dollars. The Legislature may hereafter enlarge or restrict the jurisdiction of the County Courts, provided, however, that their jurisdiction shall not be so extended as to authorize an action therein for the recovery of money only, in which the sum demanded exceeds two thousand dollars, or in which any person not a resident of the county is a defendant.

Courts of Sessions, except in the county of New York, are abolished from and after the last day of December, one thousand eight hundred and ninety-five. All the jurisdiction of the Court of Sessions in each county, except the county of New York, shall thereupon be vested in the County Court thereof, and all actions and proceedings then pending in such Courts of Sessions shall be transferred to said County Courts for hearing and determination. Every County Judge shall perform such duties as may be required by law. His salary shall be established by law, payable out of the county treasury. A County Judge of any county may hold County Courts in any other county when requested by the judge of such other county.

§ 15. The existing Surrogates' Courts are continued, and the Surrogates now in office shall hold their offices until the expiration of their terms. Their successors shall be chosen by the electors of their respec-

tive counties, and their terms of office shall be six years, except in the county of New York, where they shall continue to be fourteen years. Surrogates and Surrogates' Courts shall have the jurisdiction and powers which the Surrogates and existing Surrogates' Courts now possess, until otherwise provided by the Legislature. The County Judge shall be Surrogate of his County, except where a separate Surrogate has been or shall be elected. In counties having a population exceeding forty thousand, wherein there is no separate Surrogate, the Legislature may provide for the election of a separate officer to be Surrogate, whose term of office shall be six years. When the Surrogate shall be elected as a separate officer his salary shall be established by law, payable out of the county treasury. No County Judge or Surrogate shall hold office longer than until and including the last day of December next after he shall be seventy years of age. Vacancies occurring in the office of County Judge or Surrogate shall be filled in the same manner as like vacancies occurring in the Supreme Court. The compensation of any County Judge or Surrogate shall not be increased or diminished during his term of office. For the relief of Surrogates' Courts the Legislature may confer upon the Supreme Court in any county having a population exceeding four hundred thousand, the powers and jurisdiction of Surrogates, with authority to try issues of fact by jury in probate cases.

§16. The Legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of County Judge and of Surrogate, in cases of their inability or of a vacancy, and in such other cases as may be provided by law, and to exercise such other powers in special cases as are or may be provided by law.

§17. The electors of the several towns shall, at their annual town meetings, or at such other time and in such manner as the Legislature may direct, elect Justices of the Peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the Peace, and judges or justices of inferior courts not of record, and their clerks may be removed for cause, after due notice and an opportunity of being heard by such courts as are or may be prescribed by law. Justices of the Peace, and District Court Justices may be elected in the different cities of this State in such manner, and with such powers, and for such terms, respectively, as are or shall be prescribed by law; all other judicial officers in cities, whose election

or appointment is not otherwise provided for in this article, shall be chosen by the electors of such cities, or appointed by some local authorities thereof.

§ 18. Inferior local courts of civil and criminal jurisdiction may be established by the Legislature, but no inferior local court hereafter created shall be a court of record. The Legislature shall not hereafter confer upon any inferior or local court of its creation, any equity jurisdiction or any greater jurisdiction in other respects than is conferred upon County Courts by or under this article. Except as herein otherwise provided, all judicial officers shall be elected or appointed at such times and in such manner as the Legislature may direct.

§ 19. Clerks of the several counties shall be clerks of the Supreme Court, with such powers and duties as shall be prescribed by law. The Justices of the Appellate Division in each department shall have power to appoint and to remove a clerk, who shall keep his office at a place to be designated by said Justices. The Clerk of the Court of Appeals shall keep his office at the seat of government. The Clerk of the Court of Appeals and the Clerks of the Appellate Division shall receive compensation to be established by law and paid out of the public treasury.

§ 20. No judicial officer, except Justices of the Peace, shall receive to his own use any fees or perquisites of office; nor shall any Judge of the Court of Appeals, or Justice of the Supreme Court, or any County Judge or Surrogate hereafter elected in a county having a population exceeding one hundred and twenty thousand, practice as an attorney or counselor in any court of record of this State, or act as referee. The Legislature may impose a similar prohibition upon County Judges and Surrogates in other counties. No one shall be eligible to the office of Judge of the Court of Appeals, Justice of the Supreme Court, or, except in the county of Hamilton, to the office of County Judge or Surrogate, who is not an attorney and counselor of this State.

§ 21. The Legislature shall provide for the speedy publication of all statutes, and shall regulate the reporting of the decisions of the courts; but all laws and judicial decisions shall be free for publication by any person.

§ 22. Justices of the Peace and other local judicial officers provided for in sections seventeen and eighteen, in office when this article takes effect, shall hold their office until the expiration of their respective terms.

§ 23. Courts of Special Sessions shall have such jurisdiction of offenses of the grade of misdemeanors as may be prescribed by law.

ARTICLE VII.

Section 1. The credit of the State shall not in any manner be given or loaned to or in aid of any individual, association or corporation.

§2. The State may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts; but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed one million of dollars; and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever.

§3. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or repay such debts, and to no other purpose whatever.

§4. Except the debts specified in sections two and three of this article, no debt shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by a law, for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay, the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within eighteen years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it at such election. On the final passage of such bill in either house of the Legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?"

The Legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability which may have been contracted, in pursuance of such law, shall remain in force and be irrevocable, and be annually collected, until the proceeds thereof shall have made the provision hereinbefore specified to pay and discharge the interest and principal of such debt and liability. The money arising from any loan or stock creating such debt or liability shall be applied to the work or object specified in the act authorizing such debt or lia-

bility, or for the repayment of such debt or liability, and for no other purpose whatever. No such law shall be submitted to be voted on, within three months after its passage, or at any general election when any other law, or any bill, or any amendment to the Constitution, shall be submitted to be voted for or against.

§ 5. The sinking funds provided for the payment of interest and the extinguishment of the principal of the debts of the State shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for the specific purpose for which it shall have been provided.

§ 3. Neither the Legislature, canal board, nor any person or persons acting in behalf of the State, shall audit, allow, or pay any claim which, as between citizens of the State, would be barred by a lapse of time. This provision shall not be construed to repeal any statute fixing the time within which claims shall be presented or allowed, nor shall it extend to any claims duly presented within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.

§ 7. The lands of the State, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed.

§ 8. The Legislature shall not sell, lease or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, the Cayuga and Seneca canal, or the Black river canal; but they shall remain the property of the State and under its management forever. The prohibition of lease, sale or other disposition herein contained, shall not apply to the canal known as the Main and Hamburg street canal, situated in the city of Buffalo, and which extends easterly from the westerly line of Main street to the westerly line of Hamburg street. All funds that may be derived from any lease, sale or other disposition of any canal shall be applied to the improvement, superintendence or repair of the remaining portion of the canals.

§ 9. No tolls shall hereafter be imposed on persons or property transported on the canals, but all boats navigating the canals, and the owners and masters thereof, shall be subject to such laws and regulations as have been or may hereafter be enacted concerning the navigation of the canals. The Legislature shall annually, by equitable taxes, make provisions for the expenses of the superintendence and repairs of the canals.

All contracts for work or materials on any canal shall be made with the persons who shall offer to do or provide the same at the lowest price, with adequate security for their performance. No extra compensation shall be made to any contractor; but if, from any unforeseen cause, the terms of any contract shall prove to be unjust and oppressive, the canal board may, upon the application of the contractor, cancel such contract.

§ 10. The canals may be improved in such manner as the Legislature shall provide by law. A debt may be authorized for that purpose in the mode prescribed by section four of this article, or the cost of such improvements may be defrayed by the appropriation of funds from the state treasury, or by equitable annual tax.

ARTICLE VIII.

Section 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

§ 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

§ 3. The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

§ 4. The Legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The Legislature shall have no power to pass any act granting any special charter for banking purposes; but cor-

porations or associations may be formed for such purposes under general laws.

§5. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association or corporation, issuing bank notes of any description.

§6. The Legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

§7. The stockholders of every corporation and joint-stock association for banking purposes, shall be individually responsible, to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind.

§8. In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment, over all other creditors of such bank or association.

§9. Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation or private undertaking. This section shall not, however, prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, the juvenile delinquents, as to it may seem proper. Nor shall it apply to any fund or property now held, or which may hereafter be held, by the State for educational purposes.

§10. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be

allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water shall not exceed twenty years and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted. Whenever the boundaries of any city are the same as those of a county, or when any city shall include within its boundaries more than one county, the power of any county wholly included within such city to become indebted shall cease, but the debt of the county, heretofore existing shall not, for the purposes of this section, be reckoned as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

§ 11. The Legislature shall provide for a state board of charities, which shall visit and inspect all institutions, whether state, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character, excepting only such institutions as are hereby made subject to the visitation and inspection of either of the commissions hereinafter mentioned, but including all reformatories except those in which adult males convicted of felony shall be confined; a state commission in lunacy which shall visit and inspect all institutions, either public or private, used for the care and treatment of the insane (not including institutions for epileptics or idiots); a state commission of prisons which shall visit

and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors.

§ 12. The members of the said board and of the said commissions shall be appointed by the Governor, by and with the advice and consent of the Senate; and any member may be removed from office by the Governor for cause, an opportunity having been given him to be heard in his defense.

§ 13. Existing laws relating to institutions referred to in the foregoing sections and to their supervision and inspection, in so far as such laws are not inconsistent with the provisions of the Constitution, shall remain in force until amended or repealed by the Legislature. The visitation and inspection herein provided for shall not be exclusive of other visitation and inspection now authorized by law.

§ 14. Nothing in this Constitution contained shall prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper; or prevent any county, city, town or village from providing for the care, support, maintenance and secular education of inmates of orphan asylums, homes for dependent children or correctional institutions, whether under public or private control. Payments by counties, cities, towns and villages to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control, for care, support and maintenance, may be authorized, but shall not be required by the Legislature. No such payments shall be made for any inmate of such institutions who is not received and retained therein pursuant to rules established by the state board of charities. Such rules shall be subject to the control of the Legislature by general laws.

§ 15. Commissioners of the state board of charities and commissioners of the state commission in lunacy, now holding office, shall be continued in office for the term for which they were appointed, respectively, unless the Legislature shall otherwise provide. The Legislature may confer upon the commissions and upon the board mentioned in the foregoing sections any additional powers that are not inconsistent with other provisions of the Constitution.

ARTICLE IX.

Section 1. The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.

§2. The corporation created in the year one thousand seven hundred and eighty-four, under the name of The Regents of the University of the State of New York, is hereby continued under the name of The University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the Legislature, shall be exercised by not less than nine regents.

§3. The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenue of the said common school fund shall be applied to the support of common schools; the revenue of the said literature fund shall be applied to the support of academies; and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common school fund.

§4. Neither the State nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught.

ARTICLE X.

Section 1. Sheriffs, clerks of counties, district attorneys and registers in counties having registers, shall be chosen by the electors of the respective counties once in every three years, and as often as vacancies shall happen, except in the counties of New York and Kings, and in counties whose boundaries are the same as those of a city, where such officers shall be chosen by the electors once in every two or four years as the Legislature shall direct. Sheriffs shall hold no other office and be ineligible for the next term after the termination of their offices. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff. The Governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defense.

§2. All county officers whose election or appointment is not pro-

vided for by this Constitution, shall be elected by the electors of the respective counties or appointed by the boards of supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

§3. When the duration of any office is not provided by this Constitution it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

§4. The time of electing all officers named in this article shall be prescribed by law.

§5. The Legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

§6. The political year and legislative term shall begin on the first day of January; and the Legislature shall, every year, assemble on the first Wednesday in January.

§7. Provision shall be made by law for the removal for misconduct or malversation in office of all officers, except judicial, whose powers and duties are not local or legislative and who shall be elected at general elections, and also for supplying vacancies created by such removal.

§8. The Legislature may declare the cases in which any office shall be deemed vacant when no provision is made for that purpose in this Constitution.

§9. No officer whose salary is fixed by the Constitution shall receive any additional compensation. Each of the other State officers named in the Constitution shall, during his continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use any fees or perquisites of office or other compensation.

ARTICLE XI.

Section 1. All able-bodied male citizens between the ages of eighteen and forty-five years who are residents of this State, shall constitute the militia, subject, however, to such exemptions as are now or may be hereafter created by the laws of the United States, or by the Legislature of this State.

§2. The Legislature may provide for the enlistment into the active force of such other persons as may make application to be so enlisted.

§3. The militia shall be organized and divided into such land and naval, and active and reserve forces as the Legislature may deem proper, provided however that there shall be maintained at all times a force of not less than ten thousand enlisted men, fully uniformed, armed, equipped, disciplined and ready for active service. And it shall be the duty of the Legislature at each session to make sufficient appropriations for the maintenance thereof.

§4. The Governor shall appoint the chiefs of the several staff departments, his aides-de-camp and military secretary, all of whom shall hold office during his pleasure, their commissions to expire with the term for which the Governor shall have been elected; he shall also nominate, and with the consent of the Senate appoint, all major-generals.

§5. All other commissioned and non-commissioned officers shall be chosen or appointed in such manner as the Legislature may deem most conducive to the improvement of the militia, provided, however, that no law shall be passed changing the existing mode of election and appointment unless two-thirds of the members present in each house shall concur therein.

§6. The commissioned officers shall be commissioned by the Governor as commander-in-chief. No commissioned officers shall be removed from office during the term for which he shall have been appointed or elected, unless by the Senate on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the sentence of a court-martial, or upon the findings of an examining board organized pursuant to law, or for absence without leave for a period of six months or more.

ARTICLE XII.

Section 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their

power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations.

§2. All cities are classified according to the latest state enumeration, as from time to time made, as follows: The first class includes all cities having a population of two hundred and fifty thousand, or more; the second class, all cities having a population of fifty thousand and less than two hundred and fifty thousand; the third class, all other cities. Laws relating to the property, affairs or government of cities, and the several departments thereof, are divided into general and special city laws; general city laws are those which relate to all the cities of one or more classes; special city laws are those which relate to a single city, or to less than all the cities of a class. Special city laws shall not be passed except in conformity with the provisions of this section. After any bill for a special city law, relating to a city, has been passed by both branches of the Legislature, the house in which it originated shall immediately transmit a certified copy thereof to the mayor of such city, and within fifteen days thereafter the mayor shall return such bill to the house from which it was sent, or if the session of the Legislature at which such bill was passed has terminated, to the Governor, with the mayor's certificate thereon, stating whether the city has or has not accepted the same. In every city of the first class, the mayor, and in every other city, the mayor and the legislative body thereof concurrently, shall act for such city as to such bill; but the Legislature may provide for the concurrence of the legislative body in cities of the first class. The Legislature shall provide for a public notice and opportunity for a public hearing concerning any such bill in every city to which it relates, before action thereon. Such a bill, if it relates to more than one city, shall be transmitted to the mayor of each city to which it relates, and shall not be deemed accepted unless accepted as herein provided, by every such city. Whenever any such bill is accepted as herein provided it shall be subject, as are other bills, to the action of the Governor. Whenever, during the session at which it was passed, any such bill is returned without the acceptance of the city or cities to which it relates, or within such fifteen days is not returned, it may nevertheless again be passed by both branches of the Legislature, and it shall then be subject as are other bills, to the action of the Governor. In every special city law which has been accepted by the city or cities to which it relates, the title shall be followed by the words "accepted by the city," or "cities," as the case may be; in every such law which is passed without such accept-

ance, by the words "passed without the acceptance of the city," or "cities," as the case may be.

§3. All elections of city officers, including supervisors and judicial officers of inferior local courts, elected in any city or part of a city, and of county officers elected in the counties of New York and Kings, and in all counties whose boundaries are the same as those of a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. The terms of office of all such officers elected before the first day of January, one thousand eight hundred and ninety-five, whose successors have not then been elected, which under existing laws would expire with an even-numbered year, or in an odd-numbered year and before the end thereof, are extended to and including the last day of December next following the time when such terms would otherwise expire; the terms of office of all such officers, which under existing laws would expire in an even-numbered year, and before the end thereof, are abridged so as to expire at the end of the preceding year. This section shall not apply to any city of the third class, or to elections of any judicial officer, except judges and justices of inferior local courts.

ARTICLE XIII.

Section 1. Members of the Legislature, and all officers executive and judicial, except such inferior officers as shall be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute any money, or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote,"

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and no other oath, declaration or test shall be required as a qualification for any office of public trust.

§2. Any person holding office under the laws of this State who, except in payment of his legal salary, fees or perquisites, shall receive or consent to receive, directly or indirectly, anything of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offense of bribery.

§3. Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it was tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

§4. Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

§5. No public officer, or person elected or appointed to a public office, under the laws of this State, shall directly or indirectly ask, demand, accept, receive or consent to receive for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or telephone rates, from any person or corporation, or make use of the same himself or in conjunction with another. A person who violates any provision of this section shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the Attorney-General. Any corporation, or officer or agent thereof, who shall offer or promise to a public officer, or person elected or appointed to a public office, any such free pass, free transportation, franking privilege or discrimination shall also be deemed guilty of a misdemeanor and liable to punishment except as herein provided. No person, or officer or agent of a corporation, giving any such free pass, free transportation, franking privilege or discrimination hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of the same.

§6. Any district attorney who shall fail faithfully to prosecute a person charged with the violation in his county of any provision of this article which may come to his knowledge, shall be removed from office by the Governor, after due notice and an opportunity of being heard in his defense. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this State within such county, or of receiving bribes by any such person in said county, shall be a charge against the State, and their payment by the State shall be provided for by law.

ARTICLE XIV.

Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate and Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, and the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election of senators, and shall be published for three months previous to the time of making such choice; and if in the Legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit each proposed amendment or amendments to the people for approval in such manner and at such times as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of the Constitution from and after the first day of January next after such approval.

§2. At the general election to be held in the year one thousand nine hundred and sixteen, and every twentieth year thereafter, and also at such times as the Legislature may by law provide, the question, "Shall there be a convention to revise the Constitution and amend the same?" shall be decided by the electors of the State; and in case a majority of the electors voting thereon shall decide in favor of a convention for such purpose, the electors of every senate district of the State, as then organized, shall elect three delegates at the next ensuing general election at which members of the Assembly shall be chosen, and the electors of the State voting at the same election shall elect fifteen delegates-at-large. The delegates so elected shall convene at the Capitol on the first Tuesday of April next ensuing after

their election, and shall continue their session until the business of such convention shall have been completed. Every delegate shall receive for his services the same compensation and the same mileage as shall then be annually payable to the members of the Assembly. A majority of the convention shall constitute a quorum for the transaction of business, and no amendment to the Constitution shall be submitted for approval to the electors as hereinafter provided, unless by the assent of a majority of all the delegates elected to the convention, the yeas and nays being entered on the journal to be kept. The convention shall have the power to appoint such officers, employes and assistants as it may deem necessary, and fix their compensation, and to provide for the printing of its documents, journal and proceedings. The convention shall determine the rules of its own proceedings, choose its own officers, and be the judge of the election, returns and qualifications of its members. In case of a vacancy, by death, resignation or other cause, of any district delegate elected to the convention, such vacancy shall be filled by a vote of the remaining delegates representing the district in which such vacancy occurs. If such vacancy occurs in the office of a delegate-at-large, such vacancy shall be filled by a vote of the remaining delegates-at-large. Any proposed constitution or constitutional amendment which shall have been adopted by such convention, shall be submitted to a vote of the electors of the State at the time and in the manner provided by such convention, at an election which shall be held not less than six weeks after the adjournment of such convention. Upon the approval of such constitution or constitutional amendment, in the manner provided in the last preceding section, such constitution or constitutional amendment shall go into effect on the first day of January next after such approval.

§3. Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the Legislature, coincidentally submitted to the people for approval at the general election held in the year one thousand eight hundred and ninety-four, or at any subsequent election, shall, if approved, be deemed to supersede the amendment so proposed by the Legislature.

ARTICLE XV.

Section 1. This Constitution shall be in force from and including the first day of January, one thousand eight hundred and ninety-five, except as herein otherwise provided.

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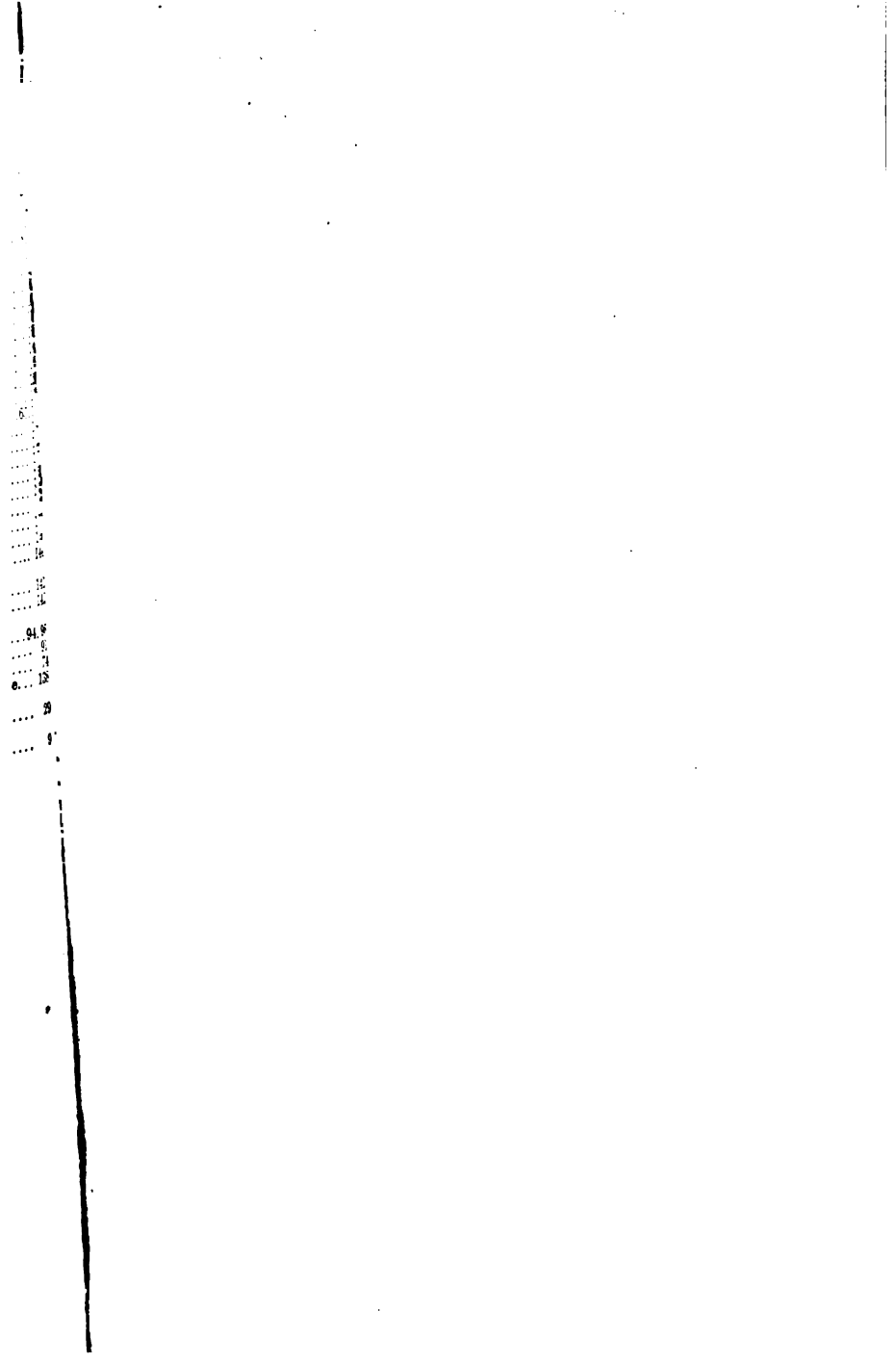
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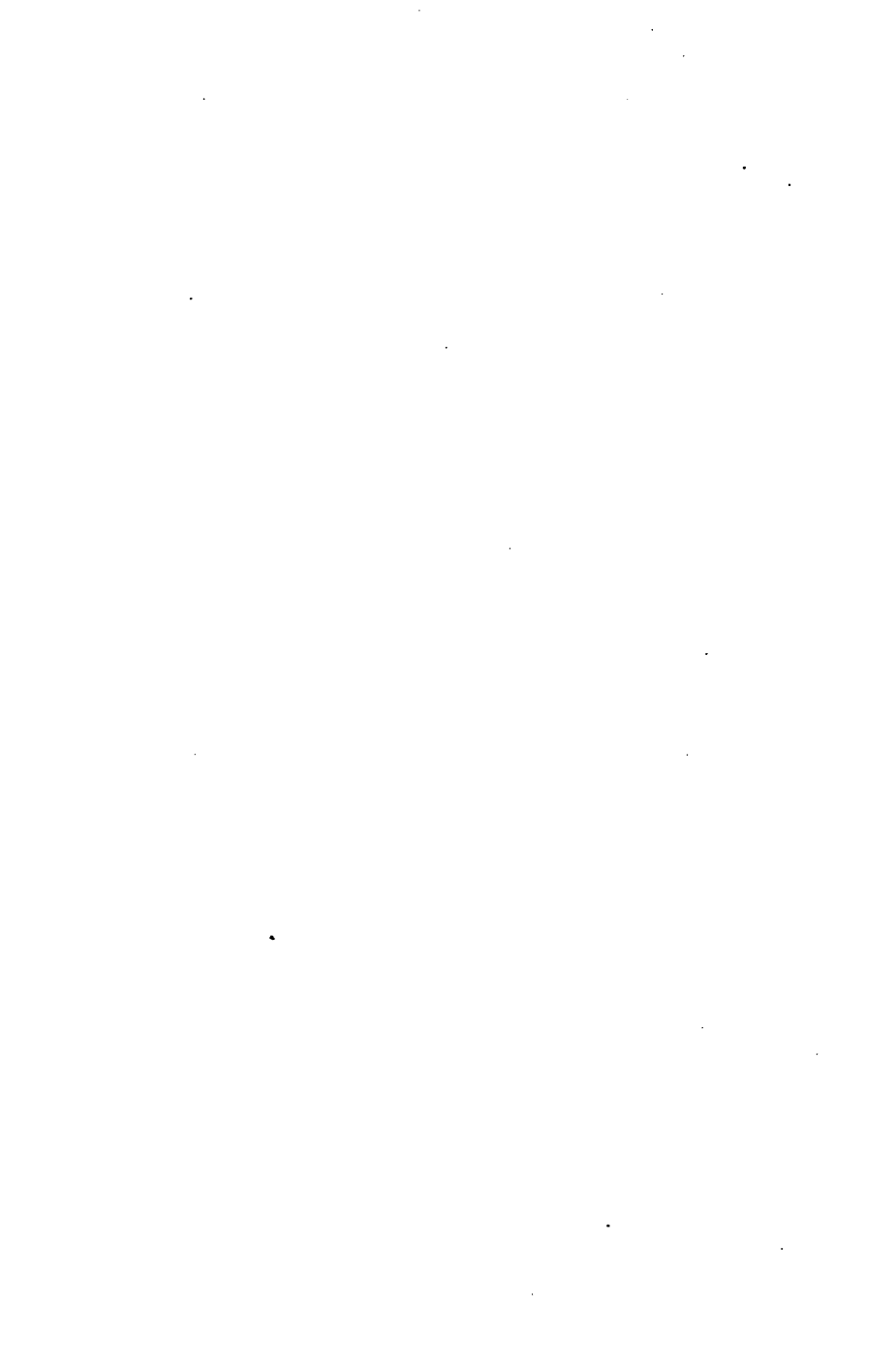
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190 CONSTITUTION OF THE STATE OF NEW YORK

ARTICLE XI.

Section 1. All able-bodied male citizens between the ages of eighteen and forty-five years who are residents of this State, shall constitute the militia, subject, however, to such exemptions as are now or may be hereafter created by the laws of the United States, or by the Legislature of this State.

§2. The Legislature may provide for the enlistment into the active force of such other persons as may make application to be so enlisted.

§3. The militia shall be organized and divided into such land and naval, and active and reserve forces as the Legislature may deem proper, provided however that there shall be maintained at all times a force of not less than ten thousand enlisted men, fully uniformed, armed, equipped, disciplined and ready for active service. And it shall be the duty of the Legislature at each session to make sufficient appropriations for the maintenance thereof.

§4. The Governor shall appoint the chiefs of the several staff departments, his aides-de-camp and military secretary, all of whom shall hold office during his pleasure, their commissions to expire with the term for which the Governor shall have been elected; he shall also nominate, and with the consent of the Senate appoint, all major-generals.

§5. All other commissioned and non-commissioned officers shall be chosen or appointed in such manner as the Legislature may deem most conducive to the improvement of the militia, provided, however, that no law shall be passed changing the existing mode of election and appointment unless two-thirds of the members present in each house shall concur therein.

§6. The commissioned officers shall be commissioned by the Governor as commander-in-chief. No commissioned officers shall be removed from office during the term for which he shall have been appointed or elected, unless by the Senate on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the sentence of a court-martial, or upon the findings of an examining board organized pursuant to law, or for absence without leave for a period of six months or more.

ARTICLE XII.

Section 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their